BINGHAM

ORIGINAL

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Our file no.: 4015585.4155850001

December 22, 2008

By Overnight Delivery

Docket Control
Arizona Corporation Commission
1200 W. Washington Street
Phoenix, AZ 85007-2927

Re: **Docket No. T-04310A-05-0127 - Application of ATX Licensing, Inc. for a Certificate of Convenience and Necessity to Provide Resold Long Distance Telecommunications Services in the State of Arizona**

Dear Sir or Madam:

On behalf of ATX Licensing, Inc. ("ATX") and pursuant to the Commission's Procedural Order dated September 23, 2008, enclosed for filing are an original and thirteen (13) copies of an updated application to reflect changes in the company since the original application was filed February 28, 2005. Updated responses can be found in questions A-2, A-4, A-5, A-6, A-8, A-11, A-15, A-16, A-20, B-1, B-2, and B-3. ATX's parent company, Broadview Networks Holdings, Inc.'s ("Broadview") most recent annual financial statements from its SEC Form 10-K are provided as 2008 Application Update - Attachment A.

Please date stamp the extra copy of this letter and return it in the self-addressed, postage paid envelope provided. Should you have any questions regarding this filing, please do not hesitate to contact us.

Respectfully submitted,

Brett P Ferenchak

Catherine Wang
Brett P. Ferenchak
Jasbir K. Bawa

Counsel for ATX Licensing, Inc.

Enclosure

Boston
Hartford
Hong Kong
London
Los Angeles
New York
Orange County
San Francisco
Santa Monica
Silicon Valley
Tokyo
Walnut Creek
Washington

Bingham McCutchen LLP
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ARIZONA CORPORATION COMMISSION

Application and Petition for Certificate of Convenience and Necessity to Provide Intrastate Telecommunications Services

Mail original plus 13 copies of completed application to:

Docket Control Center
Arizona Corporation Commission
1200 West Washington Street
Phoenix, Arizona 85007-2927

For Docket Control Only:
(Please Stamp Here)

Please indicate if you have current applications pending in Arizona as an Interexchange reseller, AOS provider, or as the provider of other telecommunication services.

Type of Service: ______________________________

Docket No.: ____________ Date: ___________ Date Docketed: ______________________

Type of Service: ______________________________

Docket No.: ____________ Date: ___________ Date Docketed: ______________________

A. COMPANY AND TELECOMMUNICATION SERVICE INFORMATION

(A-1) Please indicate the type of telecommunications services that you want to provide in Arizona and answer the appropriate numbered items:

- [x] Resold Long Distance Telecommunications Services (Answer Sections A, B).
- [ ] Resold Local Exchange Telecommunications Services (Answer Sections A, B, C).
- [ ] Facilities-Based Long Distance Telecommunications Services (Answer Sections A, B, D).
- [ ] Facilities-Based Local Exchange Telecommunications Services (Answer Sections A, B, C, D, E)
- [ ] Alternative Operator Services Telecommunications Services (Answer Sections A, B)
- [ ] Other ________ (Please attach complete description)

(A -2) The name, address, telephone number (including area code), facsimile number (including area code), e-mail address, and World Wide Web address (if one is available for consumer access) of the Applicant:

ATX Licensing, Inc. ("ATX" or "Applicant")
800 Westchester Avenue, Suite N-501
Rye Brook, NY 10573
Tel: 800-276-2384
Fax: 646-214-3633
www.broadviewnet.com

Since its initial application dated February 28, 2005, Broadview Networks Holdings, Inc. ("Broadview") acquired indirect control of ATX. Broadview, through its operating subsidiaries, is a leading regional communications company, operating an advanced telecommunications platform. This transaction has provided ATX access to Broadview's substantial technical and management expertise, financial resources and complementary suite of services. Further, the transaction has enabled ATX's customers to benefit from Broadview's national network and broad suite of IP-based services. Together, these benefits have strengthened ATX's ability to expand its offerings and provide more advanced telecommunications services to a broader customer base.

(A-3) The d/b/a ("Doing Business As") name if the Applicant is doing business under a name different from that listed in Item (A-2):

Not applicable.

(A-4) The name, address, telephone number (including areacode), facsimile number (including area code), and E-mail address of the Applicant's Management Contact:

Charles Hunter
Executive Vice President and General Counsel
Broadview Networks Holdings, Inc.
800 Westchester Avenue, Suite N-501
Rye Brook, NY 10573
Phone:(914) 922-7000
Fax: (914) 922-7001
E-mail: chunter@broadviewnet.com

(A -5) The name, address, telephone number (including area code), facsimile number (including area code), and E-mail address of the Applicant's Attorney and/or Consultant:

Catherine Wang
Brett P. Ferenchak
Jasbir Bawa
2020 K Street, NW
Washington, DC 20006
Tel: (202) 373-6697
Fax: (202) 373-6001
Email: catherine.wang@bingham.com
brett.ferenchak@bingham.com
jasbir.bawa@bingham.com

(A-6) The name, address, telephone number (including area code), facsimile number (including area code), E-mail address of the Applicant's Complaint Contact Person:

Juline White
Executive Escalations Supervisor
800 Westchester Avenue, Suite N-501
Horsham, PA 19044
Tel: (914) 922-7491
Fax: (347) 287-0241
Email: jwhite@broadviewnet.com

Toll Free Customer Service Number: 800-276-2384

(A-7) What type of legal entity is the Applicant?

☐ Sole proprietorship

☐ Partnership: _____ Limited, _____ General, _____ Arizona, _____ Foreign

☐ Limited Liability Company: _____ Arizona, _____ Foreign

■ Corporation: _____ "S", __X__ "C", _____ Non-profit

☐ Other, specify: ______________________________

(A -8) Please include "Attachment A":

Attachment "A" must include the following information:

1. A copy of the Applicant's Certificate of Good Standing as a domestic or foreign corporation, LLC, or other entity in the State of Arizona.

   Please see Attachment A of Applicant's initial Application.

2. A list of the names of all owners, partners, limited liability company managers (or if a member managed LLC, all members), or corporation officers and directors (specify).

   The following persons are officers of Broadview Networks Holdings, Inc., parent company of Applicant:

   Michael K. Robinson, Chief Executive Officer, President and Assistant Treasurer
   Brian P. Crotty, Chief Operating Officer
   Corey Rinker, Chief Financial Officer, Treasurer, Assistant Secretary
   Charles C Hunter, Executive Vice President, General Counsel and Secretary
   Kenneth A. Shulman, Chief Technology Officer and Chief Information Officer
   Terrence J. Anderson, Executive Vice President - Corporate Development

   The following are officers of ATX:

   Michael K. Robinson, Chief Executive Officer, President and Assistant Treasurer
   Corey Rinker, Treasurer and Assistant Secretary
   Charles C. Hunter, Vice President and Secretary

3. Indicate percentages of ownership of each person listed in A-8.2.

ATX is a wholly owned indirect subsidiary of Broadview Networks Holdings, Inc.

(A-9) Include your Tariff as "Attachment B".

Your Tariff must include the following information:

1. Proposed Rates and Charges for each service offered (reference by Tariff page number).

   Please see Pages 28-33.

2. Tariff Maximum Rate and Prices to be charged (reference by Tariff page number).

   Please see page 28-33.

3. Terms and Conditions Applicable to provision of Service (reference by Tariff page number).

   Please see Pages 11-24.

4. Deposits, Advances, and/or Prepayments Applicable to provision of Service (reference by Tariff page number).

   Please see Page 23.

5. The proposed fee that will be charged for returned checks (reference by Tariff page number).

   Please see Page 23.

(A-10) Indicate the geographic market to be served:

■ Statewide. (Applicant adopts statewide map of Arizona provided with thisapplication).

☐ Other. Describe and provide a detailed map depicting the area.

(A-11) Indicate if the Applicant or any of its officers, directors, partners, or managers has been or are currently involved in any formal or informal complaint proceedings pending before any state or federal regulatory commission, administrative agency, or law enforcement agency.

Describe in detail any such involvement. Please make sure you provide the following information:

1. States in which the Applicant has been or is involved in proceedings.
2. Detailed explanations of the Substance of the Complaints.
3. Commission Orders that resolved any and all Complaints.
4. Actions taken by the Applicant to remedy and/or prevent the Complaints from reoccurring.

From over 20,000 existing customer accounts nationwide, ATX has received approximately 143 informal complaints or questions related to billing and service issues for the period January 2005 through November 2008. Most of these complaints related to local exchange services rather than long distance services. All such informal complaints have been resolved without a finding of unlawful action by ATX.

Applicant had a formal complaint brought by the Law Bureau Prosecutor Staff in the matter of PA PUC Law Bureau Prosecutory Staff v. ATX Licensing, Inc., Case No. C-2003 1394. The complaint was based on ATX Licensing, Inc.'s alleged failure to timely file annual reports and tariff adoption supplements with the PAPUC. The matter was settled on January 9, 2004, approved by the bankruptcy court on November 3, 2004, and paid on November 8, 2004. Copy of the PA PUC Order is provided in Attachment E.

APCC Services, Inc., DataNet Systems, LLC, Davel Communications, Inc., Jaroth, Inc. d/b/a Pacific Telemanagement Services and Intera Communications Corp. filed an formal complaint against Applicant with the Federal Communications Commission (FCC) alleging that Applicant has failed to pay per-phone compensation pursuant to the FCC's *Fifth Order on Reconsideration and Order on Remand*, CC Docket No. 96-128, FCC 02-292 (2002). Due to the bankruptcy, the case was stayed and remains pending. A copy of the Order staying the proceeding is provided in Attachment E.

ATX had its certification revoked in January 2002 by the Illinois Commission for failure to file an annual report. ATX was not aware of the revocation until it received a letter from the Illinois Commission's Office of General Counsel on or about April 22, 2004. After considering an Application by ATX, the certificate was reinstated by the Illinois Commission on October 6, 2004. Copies of the Orders revoking the certification and the Order granting a new certificate are provided in Attachment E.

ATX has also been the subject of seven formal complaints filed by customers with the PA PUC since 2002. These complaints were all settled with the respective customers without action by the PA PUC. *See* PA PUC Docket Nos. C-20030125, C-20031915, C-20030601, C-20039584, C-20039585, C-20027684, and C-20030654.

(A -12) Indicate if the Applicant or any of its officers, directors, partners, or managers has been or are currently involved in any civil or criminal investigation, or had judgments entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.

Describe in detail any such judgments or convictions. Please make sure you provide the following information:

1. States involved in the judgments and/or convictions.
2. Reasons for the investigation and/or judgment.
3. Copy of the Court order, if applicable.

Except as described above, neither Applicant or any of its officers, directors, partners, or managers has been or are currently involved in any civil or criminal investigation, or had judgment entered in any civil matter, judgments levied by any administrative or regulatory agency, or been convicted of any criminal acts within the last ten (10) years.

(A-13) Indicate if the Applicant's customers will be able to access alternative toll service providers or resellers via 1+101XXXX access.

■ Yes ☐ No

(A-14) Is applicant willing to post a Performance Bond? Please check appropriate box(s).

■ For Long Distance Resellers, a $10,000 bond will be recommended for those resellers who collect advances, prepayments or deposits.

☐ Yes ■ No

If "No", continue to question (A-15).

☐ For Local Exchange Resellers, a $25,000 bond will be recommended.

☐ Yes ☐ No

If "No", continue to question (A-15).

☐ For Facilities-Based Providers of Long Distance, a $100,000 bond will be recommended.

☐ Yes ☐ No

If "No", continue to question (A-15).

☐ For Facilities-Based Providers of Local Exchange, a $100,000 bond will be recommended.

☐ Yes ☐ No

If "No", continue to question (A-15).

Note: Amounts are cumulative if the Applicant is applying for more than onetype of service.

(A -15) If No to any of the above, provide the following information. Clarify and explain the Applicant's deposit policy (reference by tariff page number). Provide a detailed explanation of why the applicant's superior financial position limits any risk to Arizona consumers.

Applicant will not collect advances, prepayments, or deposits from customers. *See* Page 23 of Tariff. As Applicant does not intend to market its services in Arizona and will only serve branch locations of business customers located in other states, Applicant expects only a small number of customers in Arizona. Applicant's acquisition by Broadview has ensured that Applicant is sufficiently capitalized to provide resold interexchange service in Arizona. Therefore, there is a very limited risk to Arizona consumers.

(A-16) Submit copies of affidavits of publication that the Applicant has, as required, published legal notice of the Application in all counties where the applicant is requesting authority to provide service.

Note: For Resellers, the Applicant must complete and submit an Affidavit of Publication Form as Attachment "C" before Staff prepares and issues its report. Refer to the Commission's website for Legal Notice Material (Newspaper Information, Sample Legal Notice and Affidavit of Publication). For Facilities-Based Service Providers, the Hearing Division will advise the Applicant of the date of the hearing and the publication of legal notice. Do not publish legal notice or file affidavits of publication until your ae advised to do so by the Hearing Division.

Affidavits of publication were submitted to the Commission on March 20, 2005. Please see Attachment C of Applicant's initial Application for Applicant's proposed legal notice.

(A-17) Indicate if the Applicant is a switchless reseller of the type of telecommunications services that the Applicant will or intends to resell in the State of Arizona:

■ Yes ☐ No

If "Yes", provide the name of the company or companies whose telecommunications services the Applicant resells.

While ATX primarily uses Qwest as an underlying carrier, it may also resell the services of Verizon Business, Global Crossing, Sprint and AT&T.

(A-18) List the States in which the Applicant has had an application approved or denied to offer telecommunications services similar to those that the Applicant will or intends to offer in the State of Arizona:

Note: If the Applicant is currently approved to provide telecommunications services that the Applicant intends to provide in Arizona in less than six states, excluding Arizona, list the Public Utility Commission ("PUC") of each state that granted the authorization. For each PUC listed provide the name of the contact person, their phone number, mailing address including zip code, and e-mail address.

ATX is currently authorized to provide intrastate interexchange telecommunications services in Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nevada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and West Virginia. ATX is also authorized to provide local exchange telecommunications services in Delaware, the District of Columbia, Maryland, New Jersey, New York, Pennsylvania, and Virginia.

(A -19) List the States in which the Applicant currently offers telecommunications services similar to those that the Applicant will or intends to offer in the State of Arizona.

Note: If the Applicant currently provides telecommunication services that the Applicant intends to pnovide in Arizona in six or more states, excluding Arizona, list the states. If the Applicant does not currently provide telecommunications services that the Applicant intends to provide in Arizona in five or less states, list the key personnel employed by the Applicant. Indicate each employee's name, title, position, description of their work experience, and years of service in the telecommunications services industry.

ATX currently provides intrastate interexchange telecommunications services in several states such as Alabama, Arkansas, California, Colorado, Connecticut, Delaware, Florida, Georgia, Idaho, Illinois, Indiana, Iowa, Kansas, Kentucky, Louisiana, Maine, Maryland, Massachusetts, Michigan, Minnesota, Mississippi, Missouri, Montana, Nebraska, Nev ada, New Hampshire, New Jersey, New Mexico, New York, North Carolina, North Dakota, Ohio, Oklahoma, Oregon, Pennsylvania, Rhode Island, South Carolina, Tennessee, Texas, Utah, Vermont, Virginia, Washington, Wisconsin, and West Virginia

In good faith and in the interest of full disclosure, ATX informs the Commission that it is currently providing resold intrastate interexchange services in Arizona. ATX provides such incidental services to branch locations of forty-five (45) business customers whose principal service location is in another state in which ATX is authorized to provide interexchange services. The customers have not provided deposits to ATX, nor executed contracts. Instead, the contracts for service have been executed by the customer located at the principal service location in a different state.

ATX recently discovered that it was providing intrastate long distance services in Arizona without proper Commission authorization while conducting due diligence related to its impending emergence from bankruptcy. In an effort to rectify this situation, ATX has promptly prepared and filed this application for authority to provide telecommunications services in Arizona. In addition, ATX is in the process of developing and implementing a compliance program to protect against similar mistakes in the future. To the extent possible, and in recognition of ATX's voluntary disclosure, ATX respectfully requests that the Commission grant this application on a *nunc pro tunc* basis.

It is in the public interest to grant this application.

(A-20) List the names and addresses of any alternative providers of the service that are also affiliates of the telecommunications company, as defined in R14-2-801.

Applicant has one affiliate (A.R.C. Networks, Inc.) that is authorized to provide telecommunications services in Arizona. Broadview is the ultimate parent company of several other entities that provide telecommunications services in other states, including Broadview Networks, Inc., Broadview NP Acquisition Corp., BridgeCom International, Inc., and Eureka Telecom, Inc. The address for these affiliates is also 800 Westchester Avenue, Suite N-501, Rye Brook, NY 10573

B. FINANCIAL INFORMATION
(B-1) Indicate if the Applicant has financial statements for thetwo (2) most recent years. ☐ Yes ■ No If "No," explain why and give the date on which the Applicant began operations. **Applicant does not keep separate financial statements, but Applicant's financials are included with the consolidated financial statements of Broadview Networks Holdings, Inc. ("Broadview"). Broadview acquired ATX's parent company on September 29, 2006. Broadview's 2006 Financials were previously submitted to the Commission from the Form S-4 on June 6, 2007 and are incorporated into this updated application by reference. Broadview's most recent annual financial statements from its SEC Form 10-K are provided as 2008 Application Update - Attachment A.**
(B-2) Include "Attachment D". Provide the Applicant's financial information for the two (2) most recent years. 1. A copy of the Applicant's balance sheet. 2. A copy of the Applicant's income statement. 3. A copy of the Applicant's audit report. 4. A copy of the Applicant's retained earnings balance. 5. A copy of all related notes to the financial statements and information. Note: Make sure "most recent years" includes current calendar year or current year reporting period. **Applicant provides the consolidated financial statements of its parent, Broadview Networks Holdings, Inc. Broadview's most recent annual financial statements from its SEC Form 10-K are provided as 2008 Application Update - Attachment A.**
(B-3) Indicate if the Applicant will rely on the financial resources of its Parent Company, if applicable. **Applicant will rely on the financial resources of its ultimate parent company Broadview Networks Holdings, Inc.**

(B -4) The Applicant must provide the following information.

1. Provide the projected total revenue expected to be generated by the provision of telecommunications services to Arizona customers for the first twelve months following certification, adjusted to reflect the maximum rates for which the Applicant requested approval. Adjusted revenues may be calculated as the number of units sold times the maximum charge per unit.

   Applicants operating revenue from intrastate telecommunications services for the previous 12 months was approximately $4,750.

2. Provide the operating expenses expected to be incurred during the first twelve months of providing telecommunications services to Arizona customers following certification.

   Applicants operating expenses from intrastate telecommunications services for the previous 12 months was approximately $4,180.

3. Provide the net book value (original cost less accumulated depreciation) of all Arizona jurisdictional assets expected to be used in the provision of telecommunications service to Arizona customers at the end of the first twelve months of operation. Assets are not limited to plant and equipment. Items such as office equipment and office supplies should be included in this list.

   Applicant does not have any Arizona jurisdictional assets used in the provision of intrastate telecommunications services to Arizona customers.

4. If the projected value of all assets is zero, please specifically state this in your response.

   The current value of Arizona assets is zero.

5. If the projected fair value of the assets is different than the projected net book value, also provide the corresponding projected fair value amounts.

   The current fair value of the assets is the same as the current net book value.

C. RESOLD AND/OR FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

(C-1) Indicate if the Applicant has a resale agreement in operation,

☐ Yes ☐ No

If "Yes", please reference the resale agreement by Commission Docket Number or Commission Decision Number.

Not applicable.

D. FACILITIES-BASED LONG DISTANCE AND/OR FACILITIES BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

(D-1) Indicate if the Applicant is currently selling facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services in the State of Arizona. This item applies to an Applicant requesting a geographic expansion of their CC&N:

☐ Yes ☐ No

If "Yes," provide the following information:

1. The date or approximate date that the Applicant began selling facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services for the State of Arizona.
2. Identify the types of facilities-based long distance telecommunications services AND/OR facilities-based local exchange telecommunications services that the Applicant sells in the State of Arizona.

Not applicable.

If "No," indicate the date when the Applicant will begin to sell facilities-based long distance telecommunications AND/OR facilities-based local exchange telecommunications services in the State of Arizona:

(D-2) Check here if you wish to adopt as your petition a statement that the service has already been classified as competitive by Commission Decision:

■ Decision # 64178 Resold Long Distance

☐ Decision # 64178 Resold LEC

☐ Decision # 64178 Facilities Based Long Distance

☐ Decision # 64178 Facilities Based LEC

E. FACILITIES-BASED LOCAL EXCHANGE TELECOMMUNICATIONS SERVICES

(E-1) Indicate whether the Applicant will abide by the quality of service standards that were approved by the Commission in Commission Decision Number 59421:

☐ Yes ☐ No

Not applicable.

(E-2) Indicate whether the Applicant will provide all customers with 911 and E911 service, where available, and will coordinate with incumbent local exchange carriers ("ILECs") and emergency service providers to provide this service:

☐ Yes ☐ No

Not applicable.

(E-3) Indicate that the Applicant's switch is "fully equal access capable" (i.e., would provide equal access to facilities-based long distance companies) pursuant to A.A.C. R14-2-1111 (A):

☐ Yes ☐ No

Not applicable.

I certify that if the applicant is an Arizona corporation, a current copy of the Articles of Incorporation is on file with the Arizona Corporation Commission and the applicant holds a Certificate of Good Standing from the Commission. If the company is a foreign corporation or partnership, I certify that the company has sought authority to transact business in Arizona. I certify that all appropriate city, county, and/or State agency approvals have been obtained. Upon signing of this application, I attest that I have read the Commission's rules and regulations relating to the regulations of telecommunications services (A.A.C. Title 14, Chapter 2, Article 11) and that the company will abide by Arizona state law including the Arizona Corporation Commission Rules. I agree that the Commission's rules apply in the event there is a conflict between those rules and the company's tariff, unless otherwise ordered by the Commission. I certify that to the best of my knowledge the information provided in this Application and Petition is true and correct.

(Signature of Authorized Representative)

12/22/08
(Date)

Steve Bogdan
(Print Name of Authorized Representative)

Director, Regulatory & Compliance
(Title)

SUBSCRIBED AND SWORN to before me this 22nd day of December, 2008

NOTARIAL SEAL
JOSEPH CZERW
Notary Public
UPPER MERION TWP, MONTGOMERY COUNTY
My Commission Expires Feb 21, 2012

Joseph Czerw
NOTARY PUBLIC

My Commission Expires February 21, 2012

C/19193070.3

2008 APPLICATION UPDATE
LIST OF ATTACHMENTS

Attachment A	Financial Statements from SEC Form 10-K

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ATTACHMENT A

Financial Statements from SEC Form 10-K

UNITED STATES SECURITIES AND EXCHANGE COMMISSION
Washington, D.C. 20549

Form 10-K/A
Amendment No. 1

Mark One

☑ **ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For The Fiscal Year Ended December 31, 2007

OR

☐ **TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

For the Transition Period from to

Commission File Number 333-147720

Broadview Networks Holdings, Inc.
(Exact name of registrant as specified in its charter)

Delaware *(State or other jurisdiction of incorporation or organization)*	**11-3310798** *(I.R.S. Employer Identification Number)*
800 Westchester Avenue, Suite N501 Rye Brook, NY 10573 *(Address of principal executive offices)*	**10573** *(Zip Code)*

(914) 922-7000
(Registrant's telephone number, including area code)
Securities registered pursuant to Section 12(b) of the Act:
NONE
Securities registered pursuant to Section 12(g) of the Act:
NONE

Indicate by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act. Yes ☐ No ☑

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Exchange Act. Yes ☑ No ☐

Indicate by check mark whether the registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes ☑ No ☐

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. ☑

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, or a smaller reporting company. See the definitions of "large accelerated filer," "accelerated filer" and "smaller reporting company" in Rule 12b-2 of the Exchange Act. (Check one):

Large accelerated filer ☐	Accelerated filer ☐	Non-accelerated filer ☑ (Do not check if a smaller reporting company)	Smaller reporting company ☐

Indicate by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act). Yes ☐ No ☑

State the aggregate market value of the voting and non-voting common equity held by non-affiliates computed by reference to the price at which the common equity was last sold, or the average bid and asked price of such common equity, as of the last business day of the registrant's most recently completed second fiscal quarter.

NOT APPLICABLE because no public market exists for such shares, the aggregate market value of the common stock held by non-affiliates of the Company is not determinable.

Indicate the number of shares outstanding of each of the issuer's classes of common stock as of the latest practicable date.

Class	Outstanding at March 11, 2008
Class A common stock, \$.01 par value	9,342,880
Class B common stock, \$.01 par value	360,050

DOCUMENTS INCORPORATED BY REFERENCE
NONE.

ITEM 8. CONSOLIDATED FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

Index to Consolidated Financial Statements

REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM

The Board of Directors and Stockholders of
Broadview Networks Holdings, Inc. and Subsidiaries

We have audited the accompanying consolidated balance sheets of Broadview Networks Holdings, Inc. and Subsidiaries (the "Company") as of December 31, 2007 and 2006 and the related consolidated statements of operations, stockholders' (deficiency) equity and cash flows for each of the three years in the period ended December 31, 2007. Our audits also included the financial statement schedule listed in the Index at Item 15(a). These financial statements and schedule are the responsibility of the Company's management. Our responsibility is to express an opinion on these financial statements and schedule based on our audits.

We conducted our audits in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. We were not engaged to perform an audit of the Company's internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of Broadview Networks Holdings, Inc. and Subsidiaries at December 31, 2007 and 2006 and the consolidated results of its operations and its cash flows for each of the three years in the period ended December 31, 2007, in conformity with U.S. generally accepted accounting principles. Also, in our opinion, the related financial statement schedule, when considered in relation to the basic financial statements taken as a whole, presents fairly in all material respects the information set forth therein.

As discussed in Note 2 to the consolidated financial statements, the Company changed its method of accounting for uncertainty in income taxes effective January 1, 2007 and stock-based compensation effective January 1, 2006.

/s/ Ernst & Young LLP

New York, New York
March 31, 2008

BROADVIEW NETWORKS HOLDINGS, INC. AND SUBSIDIARIES
Consolidated Balance Sheets

	Successor December 31, 2006	Successor December 31, 2007
	(In thousands, except share amounts)	
ASSETS		
Current assets:		
Cash and cash equivalents	$ 43,952	$ 41,998
Restricted cash	460	—
Accounts receivable, less allowance for doubtful accounts of $7,971 and $10,082	41,313	56,426
Other current assets	8,308	8,463
Total current assets	94,033	106,887
Property and equipment, net	61,395	77,373
Goodwill	69,632	96,154
Intangible assets, net of accumulated amortization of $65,128 and $109,335	79,848	82,841
Other assets	13,417	18,543
Total assets	$ 318,325	$ 381,798
LIABILITIES AND STOCKHOLDERS' EQUITY (DEFICIENCY)		
Current liabilities:		
Accounts payable	$ 12,684	$ 21,247
Accrued expenses and other current liabilities	47,506	43,952
Taxes payable	8,604	10,818
Deferred revenues	8,019	10,148
Current portion of capital lease obligations and equipment notes	3,084	3,136
Total current liabilities	79,897	89,301
Long-term debt	210,000	304,740
Deferred rent payable	2,747	2,628
Capital lease obligations and equipment notes, net of current portion	4,685	6,114
Deferred income taxes payable	—	1,141
Other	526	589
Total liabilities	297,855	404,513
Stockholders' equity (deficiency):		
Common stock A — $.01 par value; authorized 80,000,000, issued and outstanding 8,871,427 shares and 9,342,880 shares, respectively	102	107
Common stock B — $.01 par value; authorized 10,000,000, issued and outstanding 0 shares and 360,050 shares, respectively	—	4
Series A Preferred stock — $.01 par value; authorized 89,526 shares, designated, issued and outstanding 89,521 shares and 87,254 shares, respectively, entitled in liquidation to $112,925 and $123,880	1	1
Series A-1 Preferred stock — $.01 par value; authorized 105,000 shares, designated, issued and outstanding 100,702 shares, entitled in liquidation to $127,030 and $142,973	1	1
Series B Preferred stock — $.01 par value; authorized 93,180 shares, designated, issued and outstanding 92,832 shares and 91,202 shares, respectively, entitled in liquidation to $117,102 and $129,485	1	1
Series B-1 Preferred stock — $.01 par value; authorized 86,000 shares, designated, issued and outstanding 42,231 shares and 64,986 shares, respectively, entitled in liquidation to $53,272 and $92,265	—	1
Series C Preferred stock — $.01 par value; authorized 52,332 shares, designated, issued and outstanding 0 shares and 14,402 shares, respectively, entitled in liquidation to $0 and $13,011	—	—
Additional paid-in capital	117,689	140,270
Accumulated deficit	(97,324)	(163,100)
Total stockholders' equity (deficiency)	20,470	(22,715)
Total liabilities and stockholders' equity (deficiency)	$ 318,325	$ 381,798

See notes to consolidated financial statements.

BROADVIEW NETWORKS HOLDINGS, INC. AND SUBSIDIARIES
Consolidated Statements of Operations

	Year Ended December 31,		
	2005	2006	2007
		(In thousands)	
Revenues	$ 240,396	$ 272,653	$ 451,159
Operating expenses:			
Cost of revenues (exclusive of depreciation and amortization)	115,214	130,841	234,166
Selling, general and administrative (includes share-based compensation of $673, $754 and $2,552)	94,138	105,986	166,322
Software development	2,301	1,819	2,293
Depreciation and amortization	45,756	49,781	75,980
Impairment charges	—	—	4,000
Merger integration costs	4,531	1,430	500
Total operating expenses	261,940	289,857	483,261
Loss from operations	(21,544)	(17,204)	(32,102)
Other income	—	21	240
Interest expense	(17,842)	(25,463)	(34,390)
Interest income	458	1,395	1,489
Loss before provision for income taxes	(38,928)	(41,251)	(64,763)
Provision for income taxes	—	(262)	(726)
Net loss	(38,928)	(41,513)	(65,489)
Dividends on preferred stock	(22,002)	(32,996)	(55,031)
Modification of preferred stock	—	—	(95,622)
Loss available to common shareholders	$ (60,930)	$ (74,509)	$ (216,142)
Loss available per common share — basic and diluted	$ (9.54)	$ (10.07)	$ (23.09)
Weighted average common shares outstanding — basic and diluted	6,385,863	7,396,610	9,359,132

See notes to consolidated financial statements.

BROADVIEW NETWORKS HOLDINGS, INC. AND SUBSIDIARIES
Consolidated Statements of Stockholders' Equity (Deficiency)

	Year Ended December 31,					
	2005		2006		2007	
	Shares	Amount	Shares	Amount	Shares	Amount
	(In thousands, except share amounts)					
Series A common stock						
Balance at beginning of year	2,181,437	$ —	6,605,872	$ 66	8,871,427	$ 102
Common stock issued	—	—	—	—	—	—
Issuance of shares pursuant to the plan of merger	4,359,707	66	—	—	—	—
Issuance of shares pursuant to management incentive plan	66,250	—	—	—	—	—
Repurchase/(cancellation) of shares	(1,522)	—	(1,307,770)	—	(97,435)	(1)
Shares issued in InfoHighway acquisition	—	—	—	—	568,888	6
Issuance of shares pursuant to conversion of senior unsecured subordinated notes	—	—	3,573,325	36	—	—
Balance at end of year	6,605,872	66	8,871,427	102	9,342,880	107
Series B common stock						
Balance at beginning of year	—	—	—	—	—	—
Issuance of shares pursuant to management incentive plan	—	—	—	—	360,050	4
Balance at end of year	—	—	—	—	360,050	4
Series A Preferred stock						
Balance at beginning of year	87,254	—	89,521	1	89,521	1
Issuance of shares pursuant to the plan of merger	—	1	—	—	—	—
Issuance of new shares in cancellation of note payable	—	—	—	—	—	—
Issuance/(cancellation) of shares pursuant to management incentive plan	2,267	—	—	—	(2,267)	—
Balance at end of year	89,521	1	89,521	1	87,254	1
Series A-1 Preferred Stock						
Balance at beginning of year	—	—	—	—	100,702	1
Issuance of shares pursuant to conversion of senior unsecured subordinated notes	—	—	100,702	1	—	—
Balance at end of year	—	—	100,702	1	100,702	1
Series B Preferred Stock						
Balance at beginning of year	—	—	92,832	1	92,832	1
Issuance of shares pursuant to the merger	92,510	1	—	—	—	—
Issuance of shares pursuant to management incentive plan	383	—	—	—	—	—
Repurchase/(cancellation) of shares	(61)	—	—	—	(1,630)	—
Balance at end of year	92,832	1	92,832	1	91,202	1
Series B-1 Preferred Stock						
Balance at beginning of year	—	—	—	—	42,231	—
Shares issued in InfoHighway acquisition	—	—	—	—	22,755	1
Issuance of shares pursuant to conversion of senior unsecured subordinated notes	—	—	42,231	—	—	—
Balance at end of year	—	—	42,231	—	64,986	1
Series C Preferred Stock						
Balance at beginning of year	—	—	—	—	—	—
Issuance of shares pursuant to management incentive plan	—	—	—	—	14,402	—
Balance at end of year	—	—	—	—	14,402	—
Additional paid-in capital						
Balance at beginning of year	—	37,391	—	44,254	—	117,689
Issuance of shares pursuant to the plan of merger	—	—	—	—	—	—
Issuance of new shares in cancellation of note payable	—	—	—	—	—	—
Net effect of merger recapitalization	—	5,908	—	—	—	—
Stock based compensation	—	—	—	—	—	2,388
Repurchase of shares	—	—	—	—	—	(1,538)
Shares issued in InfoHighway acquisition	—	—	—	—	—	17,446
Warrants issued in InfoHighway acquisition	—	—	—	—	—	4,285
Deferred compensation	—	955	—	754	—	—
Adoption of SFAS No. 123R	—	—	—	(1,083)	—	—

Issuance of shares pursuant to conversion of senior unsecured subordinated notes	—	—	—	73,764	—	—
Balance at end of year	—	44,254	—	117,689	—	140,270
Accumulated deficit						
Balance at beginning of year	—	(16,883)	—	(55,811)	—	(97,324)
Adoption of FIN 48	—	—	—	—	—	(287)
Net Loss	—	(38,928)	—	(41,513)	—	(65,489)
Balance at end of year	—	(55,811)	—	(97,324)	—	(163,100)
Deferred compensation						
Balance at beginning of year	—	(801)	—	(1,083)	—	—
Deferred compensation	—	(282)	—	—	—	—
Adoption of SFAS No. 123R	—	—	—	1,083	—	—
Balance at end of year	—	(1,083)	—	—	—	—
Total stockholders' equity (deficiency)	—	$ (12,572)	—	$ 20,470	—	$ (22,715)

See notes to consolidated financial statements.

BROADVIEW NETWORKS HOLDINGS, INC. AND SUBSIDIARIES
Consolidated Statements of Cash Flows

	Year Ended December 31,		
	2005	2006	2007
		(In thousands)	
Cash flows from operating activities			
Net loss	$ (38,928)	$ (41,513)	$ (65,489)
Adjustments to reconcile net loss to net cash provided by (used in) operating activities:			
Depreciation	17,679	19,302	31,907
Amortization and write-off of deferred financing costs	1,030	2,383	2,437
Amortization of intangible assets	28,077	30,479	44,206
Amortization of bond premium	—	—	(435)
Provision for doubtful accounts	3,823	4,115	6,546
Noncash subordinated debt interest	5,991	4,920	—
Stock based compensation	673	754	2,552
Increase in fair value of derivatives	(762)	—	—
Deferred income taxes	—	—	1,141
Impairment charges	—	—	4,000
Other	(65)	(18)	251
Changes in operating assets and liabilities:			
Restricted cash	—	(460)	460
Accounts receivable	(3,243)	(1,492)	(12,357)
Prepaid expenses and other current assets	1,180	(1,328)	725
Other assets	(1,307)	(208)	(2,186)
Accounts payable	(6,007)	(15,598)	1,400
Accrued and other current liabilities	(378)	11,349	(19,680)
Deferred revenue	(359)	260	1,970
Deferred rent	747	336	(119)
Other liabilities	—	15	—
Net cash provided by (used in) operating activities	8,151	13,296	(2,671)
Cash flows from investing activities			
Proceeds from disposal of property and equipment	223	—	—
Cash acquired in merger	7,991	—	—
Acquisition, net of cash and restricted cash acquired	—	(88,787)	(56,638)
Merger acquisition costs	(10,030)	(3,635)	(1,768)
Purchase of property and equipment	(18,915)	(23,146)	(30,418)
Net cash used in investing activities	(20,731)	(115,568)	(88,824)
Cash flows from financing activities			
Proceeds from capital lease financing and equipment notes	372	7,794	5,217
Payments on capital lease obligations and equipment notes	(2,080)	(3,367)	(3,760)
Repayments of long-term debt	(3,000)	(84,000)	—
Repayments of revolving credit facility	—	—	(12,005)
Proceeds from issuance of subordinated debt	30,000	10,000	—
Repayment of subordinated debt	—	(972)	—
Proceeds from issuance of long-term debt	—	210,000	95,175
Drawdowns on revolving credit facility	—	—	11,500
Payment of subordinated debt conversion fees	—	(1,531)	—
Payment of deferred financing fees	—	(8,453)	(4,883)
Payments for shares repurchased under MIP	—	—	(1,703)
Other	115	—	—
Net cash provided by financing activities	25,407	129,471	89,541
Net increase (decrease) in cash and cash equivalents	12,827	27,199	(1,954)
Cash and cash equivalents at beginning of period	3,926	16,753	43,952
Cash and cash equivalents at end of period	$ 16,753	$ 43,952	$ 41,998
Supplemental disclosure of cash flow information			
Cash paid during the year for interest	$ 10,584	$ 7,123	$ 32,008
Supplemental schedule of non-cash information			
Equity securities issued in connection with acquisition	$ —	$ —	$ 21,742

See notes to consolidated financial statements.

BROADVIEW NETWORKS HOLDINGS, INC. AND SUBSIDIARIES
Notes to Consolidated Financial Statements
December 31, 2007
(in thousands, except share information)

1. Organization and Description of Business

Broadview Networks Holdings, Inc. (the "Company,"), formerly Bridgecom Holdings, Inc., is an integrated communications company whose primary interests consist of its wholly-owned subsidiaries, Broadview Networks, Inc. ("BNI"), Bridgecom Holdings, Inc. ("BH"), and Corecomm-ATX Inc., competitive local exchange carriers. The Company also provides phone systems and other customer service offerings through its subsidiary, Bridgecom Solutions Group, Inc. ("BSG"). The Company was founded in 1996 to take advantage of the deregulation of the U.S. telecommunications market following the Telecommunications Act of 1996. The Company has one reportable segment, which provides domestic wireline telecommunications services consisting of local and long distance voice services, Internet, and data services to commercial and residential customers in the northeast United States.

Change of Ownership

In November 2003, BH ("Predecessor Company") entered into a merger agreement with MCG Capital Corp. ("MCG"), Telecomm North Corp. (a wholly-owned subsidiary of MCG) and certain stockholders of BH. The transaction closed in March 2004. Under the terms of the agreement, Telecomm North Corp. acquired 100% of BH's shares, buying out all other stockholders. The surviving company continued to carry the name Bridgecom Holdings, Inc. ("Successor Company") until the January 2005 merger with BNI became effective at which time the Company began doing business under the name Broadview Networks Holdings, Inc.

In October 2004, the Company entered into a merger agreement with BNI and subsidiaries, the principal stockholders of BNI and MCG, 100% owners of BH, which closed and became effective in January 2005. The Company considered the following guidance under Financial Accounting Standards Board ("FASB") Statement of Financial Accounting Standards ("SFAS") No. 141, *Business Combinations* ("SFAS 141"), in determining the acquirer for accounting purposes: a) the relative voting rights in the combined entity after the combination; b) the existence of a large minority voting interest in the combined entity when no other owner or organized group of owners has a significant voting interest; c) the composition of the governing body of the combined entity; and d) the composition of the senior management of the combined entity. As a result of the merger and certain related transactions, MCG became the largest owner of the Company's capital stock, holding 60% of the voting power of the Company's capital stock and approximately 40% of the Company's capital stock on a fully diluted basis, excluding options reserved but not issued under the Company's employee stock incentive plan as of January 14, 2005. MCG appointed the governing body of the Company and its Chief Executive Officer after the completion of the merger. The majority of the remaining senior management posts for the combined entity were filled by the senior management team of BH. Accordingly, BH was considered the acquirer for accounting purposes.

In June 2006, the Company entered into a merger agreement with ATX Communications, Inc. ("ATX") and its shareholders and Leucadia National Corporation which closed and became effective in September 2006. The Company was considered the acquirer for accounting purposes.

In February 2007, the Company entered into an agreement and plan of merger to acquire Eureka Broadband Corporation ("InfoHighway"), which closed and became effective in May 2007. The Company was considered the acquirer for accounting purposes.

2. Significant Accounting Policies

Basis of Presentation

The consolidated financial statements include the accounts of the Company and its wholly-owned subsidiaries. All significant intercompany transactions have been eliminated in consolidation. We have reclassified prior year amounts to conform to the current year presentation.

Revenue Recognition

The Company's revenue is derived primarily from subscriber usage and fixed monthly recurring fees. Such revenue is recognized in the month the actual services and other charges are provided and costs are incurred, with deferral of revenue and prepayment of those monthly charges that are billed in advance. Services rendered for which the customer has not been billed are recorded as unbilled revenues until the period such billings are provided. Cable and wiring revenues are recognized when the Company provides the services. Revenue and direct costs related to up-front service installation fees are deferred and amortized over 4 years.

Unbilled revenue included in accounts receivable represents revenue for earned services, which was billed in the succeeding month and totaled $5,306 and $10,323 as of December 31, 2006 and 2007, respectively.

Revenue from carrier interconnection and access amounting to $14,843, $15,028 and $25,352 in the years ended December 31, 2005, 2006 and 2007, respectively, is recognized in the month in which service is provided.

Costs of Revenue

Costs of revenue include direct costs of sales and network costs. Direct costs of sales include the costs incurred with telecommunication carriers to render services to customers. Network costs include the costs of fiber and access, points of presence, repairs and maintenance, rent and utilities of the telephone, internet data network, as well as salaries and related expenses of network personnel. Network costs are recognized during the month in which the service is utilized. The Company accrues for network costs incurred but not billed by the carrier.

Cash and Cash Equivalents

The Company considers all highly liquid investments with original maturities of three months or less to be cash equivalents. All cash balances are maintained with high credit quality financial institutions which are members of the FDIC.

Restricted Cash

Restricted cash represents the balance of cash that ATX was required to set aside for the purpose of paying certain claims and administrative expenses.

Accounts Receivable and Allowance for Doubtful Accounts

Accounts receivable are reported at their outstanding unpaid principal balances reduced by an allowance for doubtful accounts. The Company estimates doubtful accounts based on historical bad debts, factors related to the specific customers' ability to pay, percentages of aged receivables and current economic trends. Allowances for doubtful accounts are recorded as selling, general and administrative expenses. The Company writes off accounts deemed uncollectible after efforts to collect such accounts are not successful.

Property and Equipment

Property and equipment are stated at cost. Depreciation is computed using the straight-line method over the estimated useful lives of the assets. The estimated useful life is three years for computer equipment, five years for furniture and fixtures, and seven years for network equipment. Leasehold improvements are amortized on a straight-line basis over the shorter of their estimated useful lives or the related lease term. Capitalized software costs are amortized on a straight-line basis over the estimated useful life, typically two years. Construction in progress includes amounts incurred in the Company's expansion of its network. The amounts include switching and co-location equipment, switching and co-location facilities design and co-location fees. The Company has not capitalized interest to date since the construction period has been short in duration and the related imputed interest expense incurred during that period was insignificant. When construction of each switch or co-location facility is completed, the balance of the assets is transferred to network equipment and depreciated in accordance with the Company's policy. Maintenance and repairs are expensed as incurred.

Impairment of Long-Lived Assets

Long-lived assets, including intangible assets, are reviewed for impairment whenever events or changes in circumstances indicate, in management's judgment, that the carrying amount of an asset (or asset group) may not be recoverable. In analyzing potential impairments, projections of future cash flows from the asset group are used to estimate fair value. If the sum of the expected future undiscounted cash flows is less than the carrying amount of the asset group, a loss is recognized for the difference between the estimated fair value and carrying value of the asset group. The projections are based on assumptions, judgments and estimates of growth rates for the related business, anticipated future economic, regulatory and political conditions, the assignment of discount rates relative to risk and estimates of terminal values.

Goodwill

Goodwill is the excess of the purchase price over the fair value of net assets acquired in business combinations accounted for as purchases. In accordance with SFAS No. 142, " *Goodwill and Other Intangible Assets* " ("SFAS 142") the Company evaluates its goodwill for impairment annually on October 1 and when events and circumstances warrant such review. Impairment charges, if any, are charged to the results of operations. The recoverability of goodwill is assessed at a reporting unit level, which is the lowest asset group level for which identifiable cash flows are largely independent of the cash flows of other asset groups, and is based on projections of discounted cash flows. The Company has one reporting unit. The projections of future operating cash flow necessary to conduct the impairment review, are based on assumptions, judgments and estimates of growth rates for the related business, anticipated future economic, regulatory and political conditions, the assignment of discount rates relative to risk and estimates of terminal values.

Third Party Conversion Costs

The Company currently capitalizes third party conversion costs incurred to provision customers to its network. These costs include external vendor charges, but exclude costs incurred internally. At January 1, 2006, the Company changed the third party conversion costs amortization period from two to four years. The Company believes that an amortization period of four years more properly reflects the expected life of its current customer base, which was based in part on a churn analysis performed by management from which it was determined that monthly customer churn was approximately 2% along with a decision by management to extend the minimum contract term for its customers beyond two years. The effect of changing this estimate in useful life was a reduction of depreciation expense and a decrease to net loss of $2,951 and $2,018 for the years ended December 31, 2006 and 2007, respectively. The impact of this change on a per share basis for the years ended December 31, 2006 and 2007 was $0.40 and $0.22, respectively.

Debt Issuance Costs

The costs related to the issuance of long-term debt are deferred and amortized into interest expense over the life of each debt issuance.

Significant Vendor

The Company purchases approximately 66.3% of its telecommunication services from one vendor. Accounts payable in the accompanying consolidated balance sheets include $28,244 and $24,513 as of December 31, 2006 and 2007, respectively, due to this vendor.

Income Taxes

The Company recognizes deferred income taxes using the asset and liability method of accounting for income taxes. Under the asset and liability method, deferred income taxes are recognized for differences between the financial reporting and tax bases of assets and liabilities at enacted statutory tax rates in effect for the years in which the differences are expected to reverse. The effect on deferred taxes of a change in tax rates is recognized in income in the period that includes the enactment date. In addition, valuation allowances are established when necessary to reduce deferred tax assets to the amounts expected to be realized.

Uncertainty in Income Taxes

In July 2006, the Financial Accounting Standards Board ("FASB") issued Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* ("FIN 48"). FIN 48 requires the use of a two-step approach for recognizing and measuring tax benefits taken or expected to be taken in a tax return and disclosures regarding uncertainties in income tax positions. Only tax positions that meet the more likely than not recognition threshold at the effective date may be recognized upon adoption of FIN 48. The Company adopted FIN 48 effective January 1, 2007 and recorded a cumulative effect adjustment of $287 to opening retained earnings. Prior to the adoption of FIN 48, the Company had two significant tax benefits that involved uncertainty. The first of which related to the Company's tax position surrounding management and administrative services provided by MCG. The second related to the Company's tax position with respect to warrants issued to MCG. As of December 31, 2007, the Company has not included a liability for unrecognized income tax benefits principally due to a settlement reached with the Internal Revenue Services during July 2007 relating to these tax matters.

Stock-Based Compensation

Effective January 1, 2006, the Company began recording compensation expense associated with stock options and other forms of equity compensation in accordance with SFAS No. 123R, *Share-Based Payment* ("SFAS 123R"), using the modified-prospective-transition method (as permitted under SFAS No. 148, *Accounting for Stock-Based Compensation — Transition and Disclosure)* to all new awards granted, modified or settled after January 1, 2003. SFAS 123R eliminates the ability to account for stock-based compensation transactions using the intrinsic value method under Accounting Principles Board Opinion No. 25 ("APB 25"), *Accounting for Stock Issued to Employees,* and instead generally requires that such transactions be accounted for using a fair value based method.

As permitted under SFAS 123R, the Company uses the Black-Scholes-Merton ("BSM") option-pricing model to determine the fair value of stock-based awards. The BSM model is consistent with the option-pricing model the Company used to value stock-based awards granted prior to January 1, 2006. See Note 12.

Software Development Costs

The Company capitalizes the cost of internal use software in accordance with Statement of Position 98-1, *Accounting for the Cost of Computer Software Developed or Obtained for Internal Use* ("SOP 98-1"). SOP 98-1 provides guidance for the accounting for computer software developed or acquired for internal use, including the requirement to capitalize certain costs and the amortization of these costs. Costs for preliminary stage projects are expensed as incurred while application stage projects are capitalized.

The latter costs are typically internal payroll costs of employees associated with the development of internal use computer software. The Company commences amortization of the software on a straight-line basis over the estimated useful life, typically two years, when it is ready for intended use.

During the years ended December 31, 2005, 2006 and 2007, the Company capitalized approximately $1,759, $2,184 and $2,175 of software development costs, respectively, which are included in property and equipment. Amortization expense related to these assets was approximately $3,712, $2,768 and $2,715 for the years ended December 31, 2005, 2006 and 2007, respectively. The unamortized balance of capitalized software development costs as of December 31, 2006 and 2007 is $2,738 and $2,200, respectively.

Advertising

The Company expenses advertising costs in the period incurred and these amounts are included in selling, general and administrative expenses. Advertising expenses approximated $584, $536 and $1,234 for the years ended December 31, 2005, 2006 and 2007, respectively.

Disputes

The Company accounts for disputed billings from carriers based on the estimated settlement amount of disputed balances. The estimate is based on a number of factors including historical results of prior dispute settlements with the carriers and is periodically reviewed by management to reassess the likelihood of success. Actual settlements may differ from estimated amounts (see Note 15).

Use of Estimates

The preparation of the consolidated financial statements in conformity with U.S. generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the consolidated financial statements and the reported amount of revenues and expenses during the reporting period. Management periodically reviews such estimates and assumptions as circumstances dictate. Actual results could differ from those estimates.

Comprehensive Income

Comprehensive income represents the change in net assets of a business enterprise during a period from non-owner sources. For the years ended December 31 2005, 2006 and 2007, the Company's net loss was the only item of comprehensive income.

Accounting for Derivatives and Hedging Activities

The Company had interest rate swap derivatives for a period in 2005 and 2006. These derivatives were not designated as a hedge for accounting purposes. As a result, the change in the fair value of the derivatives totaling $762 for the year ended December 31, 2005 was recorded in interest expense and cash flows from operating activities. There was no liability on the consolidated balance sheet at December 31, 2005 and the derivates expired during the year ended December 31, 2006 with no effect on the consolidated statement of operations. The Company has no outstanding derivative transactions at December 31, 2007.

3. Recent Accounting Pronouncements

In December 2007, the FASB issued SFAS No. 141(R), *Business Combinations (Revised)* ("SFAS 141(R)"), to replace SFAS 141. SFAS 141(R) requires the use of the acquisition method of accounting, defines the acquirer, establishes the acquisition date and broadens the scope to all transactions and other events in which one entity obtains control over one or more other businesses. This statement is effective for business combinations or transactions entered into for fiscal years beginning on or after December 15, 2008. The Company is still evaluating the impact of SFAS 141(R), however, the adoption of this statement is not expected to have a material impact on our financial position or results of operations.

In February 2007, the FASB issued SFAS 159, *The Fair Value Option for Financial Assets and Financial Liabilities — Including an Amendment of SFAS 115* ("SFAS 159"), which permits but does not require us to measure financial instruments and certain other items at fair value. Unrealized gains and losses on items for which the fair value option has been elected are reported in earnings. This statement is effective for financial statements issued for fiscal years beginning after November 15, 2007. The adoption of this statement will not have any impact on the financial statements of the Company.

In September 2006, the FASB issued SFAS 157, *Fair Value Measurements* ("SFAS 157"). SFAS 157 defines fair value, establishes a framework for measuring fair value in generally accepted accounting principles and establishes a hierarchy that categorizes and prioritizes the sources to be used to estimate fair value. SFAS 157 also expands financial statement disclosures about fair value measurements. On February 12, 2008, the FASB issued FASB Staff Position (FSP) 157-2 which delays the effective date of SFAS 157 for one year, for all nonfinancial assets and nonfinancial liabilities, except those that are recognized or disclosed at fair value in the financial statements on a recurring basis (at least annually). SFAS 157 and FSP 157-2 are effective for financial statements issued for fiscal years beginning after November 15, 2007. The Company has elected a partial deferral of SFAS 157 under the provisions of FSP 157-2 related to the measurement of fair value used when evaluating goodwill, other intangible assets and other long-lived assets for impairment. The impact of partially adopting SFAS 157 effective January 1, 2008 will not be material to the Company's financial statements.

4. Acquisitions and Merger Agreements

2007 Acquisition

On February 23, 2007, we entered into an agreement and plan of merger to acquire all of the outstanding capital stock of Eureka Broadband Corporation, a competitive local exchange carrier operating primarily in the northeastern United States, in a transaction that closed on May 31, 2007 (the "2007 Merger"). Accordingly, the results of InfoHighway are included in these consolidated financial statements beginning June 1, 2007. The consolidated results of the Company reflect the acquisition under the purchase method of accounting in accordance with SFAS 141.

The purchase price consisted of a combination of cash and equity securities. Each share of capital stock of InfoHighway was converted into the right to receive cash and shares of the Company's Series B-1 Preferred Stock, shares of Class A Common Stock and warrants to purchase units of the Company's Series B-1 Preferred Stock and Class A Common Stock. The aggregate purchase price paid by the Company is as follows:

Cash paid, net of cash acquired of $7,841	$ 56,638
Equity securities issued, including warrants	21,742
Acquisition costs	1,504
	$ 79,884

The Company issued 22,755 shares of Series B-1 Preferred Stock and 568,888 shares of Class A Common Stock, with an aggregate value of $17.5 million. The shares of Series B-1 Preferred Stock and Class A Common Stock issued in the transaction have the same voting rights as existing Series B-1 Preferred Shares and Class A Common Stock. The warrants to acquire 16,976 units, with each such unit comprised of 1 share of Series B-1 Preferred Stock and 25 shares of Class A Common Stock, are generally exercisable for a period of up to five years, with the exercise price of each warrant unit determined based on the cash flow generated from a certain customer of the legacy InfoHighway entity during the two year period following closing of the acquisition. As certain cash flow parameters are met as calculated and agreed upon for the twelve months ended May 31, 2008 and the twelve months ended May 31, 2009, the exercise price on the warrants may decrease from $883.58 per unit to an exercise price of $0.01 per unit. The aggregate value of the warrants of $4.2 million at May 31, 2007, the close of the InfoHighway acquisition, was determined utilizing the Black-Scholes model assuming a 2.5 year expected life, a volatility based on market comparable entities of 55%, no expected dividends, an exercise price of $883.58 per unit and a risk free rate of 4.9%.

The Company concluded the potential decrease in the exercise price of the warrants was contingent consideration and accounted for the warrants as of the date of acquisition. SFAS 141 discusses the accounting for contingent consideration made in a purchase that is based on maintaining or achieving specified earnings levels. SFAS 141 provides that contingent consideration determinable at the date of acquisition should be included in determining the cost of an acquired entity and recorded at that date. Contingent consideration is determinable when the contingency is resolved or not contingent beyond a reasonable doubt and the consideration is issued or issuable. Additional consideration that becomes payable as a result of the resolution of a contingency based on earnings in specified periods after the acquisition date is added to the cost of the acquired entity. As of the date of acquisition, the Company concluded that any exercise price below the $883.58 was not certain beyond a reasonable doubt and therefore would not be recorded as part of the purchase price until the contingency period was over and the exercise price was known.

As of August 14, 2008, the exercise price on the first traunch of warrants has not been determined. Negotiations are occurring between the Company and the warrant holders as to how certain carrier disputes relating specifically to InfoHighway that were in existence at the acquisition date and arising subsequent to that date will be handled in the cash flow calculation. The Company has concluded based on the criteria set forth in SFAS 141 that it will not adjust the value of the warrants until an exercise price has been determined. When the exercise price for the first traunch of warrants is resolved, the Company will utilize a Black-Scholes model to determine the aggregate value of the warrants. If the Company determines that the value of the warrants has increased, the Company will record additional merger consideration and related goodwill at the point in time of such determination. The Company evaluated the warrants under EITF Issue No. 00-19, *Accounting for Derivative Financial Instruments Indexed to, and Potentially Settled in, a Company's Own Stock* , and determined that once the exercise price is resolved, the warrants will be classified in equity. The Company will account for the second traunch of warrants in the same way after the cash flows generated for the twelve months ended May 31, 2009 have been calculated and agreed upon.

The total purchase price has been allocated to the assets acquired and liabilities assumed based on their respective fair value as of May 31, 2007. There is no resulting goodwill that is expected to be deductible for tax purposes. The liabilities included in the acquisition cost allocation for exit activities included severance costs of terminated InfoHighway employees affected by the merger. These liabilities were accounted for in accordance with Emerging Issues Task Force ("EITF") 95-3, *Recognition of Liabilities in Connection with a Purchase Business Combination* ("EITF 95-3"). The balance of such liabilities was approximately $1,086 as of December 31, 2007 and is expected to be paid within one year.

The purchase price of the InfoHighway transaction was allocated as follows:

Assets acquired, excluding cash:	
Accounts receivable	$ 9,302
Other current assets	880
Property and equipment	17,435
Goodwill	26,258
Customer-based intangibles	46,800
Other intangibles	4,400
Other non-current assets	495
Total assets acquired	105,570
Liabilities assumed:	
Current liabilities	25,686
Net assets acquired	$ 79,884

2006 Acquisition

On June 26, 2006, the Company entered into a stock purchase agreement with ATX and its shareholders in a transaction that closed on September 29, 2006 (the "2006 Merger"). Accordingly, the results of ATX are included in these consolidated financial statements beginning September 30, 2006. ATX is a facilities-based competitive communications provider operating in the mid-Atlantic Region states including Pennsylvania, New Jersey, Delaware, Maryland and the District of Columbia.

The Company purchased all of the outstanding capital stock of ATX for net aggregate cash consideration of approximately $88,787. The total purchase consideration has been allocated to the assets acquired and liabilities assumed based on their respective fair value as of September 30, 2006. Goodwill is expected to be deducted for tax purposes (see Note 13). The liabilities included in the acquisition cost allocation for exit activities included severance costs for terminated ATX executives and employees affected by the merger. These liabilities were accounted for in accordance with EITF 95-3. The balance of such liabilities was approximately $287 as of December 31, 2007 and is expected to be paid in 2008.

The purchase price of the transaction as determined based on fair value was allocated as follows:

Assets acquired:	
Cash and cash equivalents	$ 10,646
Restricted cash	1,508
Accounts receivable	19,441
Other current assets	3,817
Property and equipment	17,607
Goodwill	38,033
Customer-based intangibles	21,412
Other intangibles	7,909
Other non-current assets	1,811
Total assets acquired	122,184

Liabilities assumed:	
Current liabilities	20,732
Other liabilities	511
Total liabilities assumed	21,243
Net assets acquired	$ 100,941

The following unaudited pro forma financial information for the 2006 and 2007 Mergers was prepared in accordance with SFAS 141 and assumes the acquisition had occurred at the beginning of the periods presented. The unaudited pro forma information is provided for informational purposes only. These pro forma results are based upon the respective historical financial statements of the respective companies. The pro forma results of operations do not necessarily reflect the results that would have occurred had the acquisition occurred at the beginning of the periods presented or the results that may occur in the future.

The unaudited pro forma combined results are as follows for the years ended December 31, 2006 and 2007:

	2006	2007
Revenues	$507,906	$498,965
Net loss	$ (60,720)	$ (75,703)
Loss available per common share — basic and diluted	$ (9.70)	$ (23.59)

Loss available per common share includes the effect of the dividends accumulated on the Company's Preferred Stock as well as the effect of a modification to the Preferred Stock (see Note 17).

2005 Merger

In October 2004, BH entered into a merger agreement with BNI that became effective January 14, 2005 (the "2005 Merger") and, accordingly, the results of BNI are included in these consolidated financial statements beginning January 14, 2005. The 2005 merger was effectuated by way of a stock for stock exchange whereby holders of the capital stock of BH and BNI each exchanged their capital stock for certain newly issued common and preferred shares of the Company. BH was considered the acquirer for accounting purposes (see Note 1). The total purchase consideration has been allocated to the assets acquired and liabilities assumed based on their respective fair value as of January 1, 2005. There is no resulting goodwill that is expected to be deductible for tax purposes. The liabilities included in the acquisition cost allocation for exit activities included severance costs for terminated BNI executives and employees affected by the merger and certain lease termination costs related to leases terminated due to the merger. These liabilities were accounted for in accordance with EITF 95-3. The balance of such liabilities was $802 and $717 as of December 31, 2006 and 2007, respectively, and primarily consists of lease termination costs to be paid through 2010.

The purchase price of the transaction as determined based on fair value was allocated as follows:

Assets acquired:	
Cash and cash equivalents	$ 7,991
Accounts receivable	14,915
Other current assets	3,335
Property and equipment	29,225
Customer-based intangibles	84,000
Goodwill	19,842
Other	985
Total assets acquired	160,293
Liabilities assumed:	
Current liabilities	56,893
Long-term debt	87,870
Other long term liabilities	3,745
Total liabilities assumed	148,508
Net assets acquired	$ 11,785

Included in the consolidated statement of operations for the years ended December 31, 2005, 2006 and 2007 are merger integration costs of approximately $4,531, $1,430 and $500, respectively, which consist primarily of network shutdown costs incurred to shut down components of the Company's network and to migrate its customers from legacy billing systems to the Company's billing platform. Additionally, these costs also include severance costs and consulting fees related to former employees.

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5. Other Assets

Other current assets consist of the following at December 31:

	2006	2007
Deferred carrier charges	$ 3,021	$ 2,563
Prepaid expenses	2,729	3,903
Other	2,558	1,997
Total other current assets	$ 8,308	$ 8,463

Other non-current assets consist of the following at December 31:

	2006	2007
Deferred financing costs	$ 9,648	$ 12,094
Lease security and carrier deposits	2,017	2,778
Other	1,752	3,671
Total other non-current assets	$ 13,417	$ 18,543

The Company incurred deferred financing costs of $4,883 related to the issuance of long term debt in 2007 (see Note 10). Amortization of deferred financing costs amounted to approximately $1,030, $1,173 and $2,286 for the years ended December 31, 2005, 2006 and 2007, respectively.

Other includes costs associated with the initial public offering that is currently in progress including underwriting fees, legal fees and other costs incurred directly related to our initial public offering. Such costs will be charged against the gross proceeds of the offering when completed.

6. Property and Equipment

Property and equipment, at cost, consists of the following at December 31:

	2006	2007
Network equipment	$ 65,018	$ 107,286
Computer and office equipment	16,794	19,196
Capitalized software costs	8,639	10,607
Furniture and fixtures and other	8,084	8,574
Leasehold improvements	4,661	5,386
	103,196	151,049
Less accumulated depreciation and amortization	(41,801)	(73,676)
	$ 61,395	$ 77,373

Property and equipment includes amounts acquired under capital leases of approximately $9,655 and $10,120, respectively, net of accumulated depreciation and amortization of approximately $1,429 and $4,591, respectively, at December 31, 2006 and 2007.

7. Identifiable Intangible Assets and Goodwill

The Company accounts for intangible assets under SFAS 142. The Company's intangible assets, consisting primarily of its customer base and trademark, were valued as follows:

Customer Relationships: The Company's customer relationships are composed of subscribers to the Company's various telecommunications services. The multi-period excess earnings method, a variant of the income approach, was utilized to value the customer relationship intangibles.

The customer relationship intangibles are amortized on a straight line basis over the average expected life of the customer relationships based on the Company's historical disconnect statistics or on an accelerated method over their useful lives in proportion to the expected benefits to be received. The lives range from four to eleven years. The unamortized balances are evaluated for potential impairment based on future estimated cash flows when an impairment indicator is present.

Trademark: The Company's trademarks were valued using a variant of the income approach, referred to as the relief from royalty method.

The Company's ATX trademark was considered to have an indefinite life at the date it was acquired. During the fourth quarter of 2007, the Company began the process of rebranding its operations following the acquisitions of InfoHighway and ATX. As a result of the rebranding process, the Company believes that the remaining useful life of the ATX trademark is three years and will be amortized on a straight-line basis. The Company considered this change in the estimated useful life to be an indication that the carrying amount of the ATX trademark may not be recoverable and required the Company to evaluate the ATX trademark for impairment. As a result of the evaluation, the Company incurred an impairment charge of $4.0 million during the fourth quarter of 2007, which was the excess of the carrying value over the estimated fair value of the ATX trademark.

The InfoHighway trademark intangible assets is amortized on an accelerated method over its useful life in proportion to the expected benefits to be received. The life of this intangible asset is four years. The unamortized balance is evaluated for impairment based on future estimated cash flows when an impairment indicator is present.

The components of intangible assets at December 31 are as follows:

	2006			2007		
	Gross Carrying Value	Accumulated Amortization	Net Carrying Value	Gross Carrying Value	Accumulated Amortization	Net Carrying Value
Customer base	$ 137,067	$ (64,901)	$ 72,166	$ 183,867	$ (107,168)	$ 76,699
Trademarks	7,000	—	7,000	7,400	(1,258)	6,142
Other	909	(227)	682	909	(909)	—
	$ 144,976	$ (65,128)	$ 79,848	$ 192,176	$ (109,335)	$ 82,841

Amortization of intangible assets for the years ended December 31, 2005, 2006 and 2007 amounted to $28,077, $30,479 and $44,206 respectively.

Future projected amortization expense is as follows:

Year ending December 31:	
2008	$ 40,958
2009	16,431
2010	11,520
2011	4,605
2012	3,066
Thereafter	6,261
	$ 82,841

Changes in the carrying amount of goodwill are as follows:

Balance at December 31, 2005	$ 27,964
Effects of 2006 acquisition	41,668
Balance at December 31, 2006	69,632
Effects of 2007 acquisition	26,258
Other	264
Balance at December 31, 2007	$ 96,154

8. Accrued Expenses and Other Current Liabilities

Accrued expenses and other current liabilities consist of the following at December 31:

	2006	2007
Recurring network costs and other operating accruals	$ 14,211	$ 23,488
Carrier settlements(a)	15,186	—
Accrued interest(b)	8,615	11,375
Merger transaction costs(c)	2,999	2,090
Payroll related liabilities	6,320	6,840
Other	175	159
Total accrued expenses and other current liabilities	$ 47,506	$ 43,952

(a) In February 2007, we finalized a settlement with our major telecommunications supplier and paid $15,200 to extinguish approximately $39,000 of outstanding disputes. Additional disputes with this and other suppliers are included in accounts payable and accrued expenses and other current liabilities.

(b) Represents accrued interest on the Senior Secured Notes. Interest is paid semi-annually on March 1 and September 1 of each year.

(c) The accrual for merger transaction costs consists of the following:

	ATX Severance	InfoHighway Severance	Lease Termination	Other	Total
Balance at December 31, 2006	$ 1,810	$ —	$ 781	$ 408	$ 2,999
Additions	—	2,000	—	—	2,000
Payments	(1,523)	(914)	(149)	(323)	(2,909)
Balance at December 31, 2007	$ 287	$ 1,086	$ 632	$ 85	$ 2,090

9. Obligations Under Capital and Operating Leases

Capital Leases

In March 2006, the Company entered into a capital lease facility, as amended in October 2006, with a third party that allows the Company to finance the acquisition of up to $12,500, or as otherwise limited by our indenture (see Note 10), of network related equipment through December 31, 2007. The Company is obligated to repay the borrowings in thirteen quarterly installments. At the end of the final installment period, the Company has the option of renewing, returning or purchasing the equipment at a mutually agreed fair value which is not to exceed 18% of original equipment cost. The company had borrowings of $8,508 outstanding on this facility at December 31, 2007.

The future minimum lease payments under all capital leases at December 31, 2007 are as follows:

Year ending December 31:	
2008	$ 4,671
2009	4,372
2010	2,776
2011	444
	12,263
Less amounts representing interest	3,013
	9,250
Less current portion	(3,136)
Capital lease obligations, net of current portion	$ 6,114

Amortization of capital leases is included in depreciation and amortization expense in the consolidated statements of operations.

Operating Leases

The Company rents office space, switch locations and equipment under various operating leases. The future minimum lease payments under operating leases at December 31, 2007 are as follows:

Year ending December 31:	
2008	$ 11,807
2009	10,694
2010	9,678
2011	5,681
2012	3,844
Thereafter	5,246
Total minimum lease payments	$ 46,950

Future minimum lease payments are net of sublease rentals as follows:

Year ending December 31:	
2008	$ 732
2009	741
2010	655
2011	40
Total sublease rentals	$ 2,168

Total rent expenses under these operating leases, including escalation charges for real estate taxes and other expenses, amounted to approximately $7,094, $7,703 and $11,979 for the years ended December 31, 2005, 2006 and 2007, net of approximately $438, $284 and $706 of sublease rental income, respectively. Rent expense is charged to operations ratably over the terms of the leases, which results in deferred rent payable.

10. Debt

Senior Secured $210,000 Notes

On August 23, 2006, the Company issued $210,000 principal amount of 11 3/8% Senior Secured Notes due 2012 (the "Senior Secured Notes"). The net proceeds from the Senior Secured Notes were used to fund the ATX acquisition, repay indebtedness under the Company's senior secured credit facility and senior unsecured subordinated notes due 2009, and for general corporate purposes. The Company is required to pay cash interest on the principal amount of the notes at a rate of 11 3/8% per annum, which is due semi-annually on March 1 and September 1 of each year, commencing on March 1, 2007. The Senior Secured Notes mature on September 1, 2012. The notes are fully, unconditionally and irrevocably guaranteed on a senior secured basis, jointly and severally, by each of the Company's existing and future domestic restricted subsidiaries. The notes and the guarantees rank senior in right of payment to all existing and future subordinated indebtedness of the Company and its subsidiary guarantors, as applicable, and equal in right of payment with all existing and future senior indebtedness of the Company and of such subsidiaries.

The notes and the guarantees are secured by a lien on substantially all of the Company's assets provided, however , that pursuant to the terms of an intercreditor agreement, the security interest in those assets consisting of receivables, inventory, deposit accounts, securities accounts and certain other assets that secure the notes and the guarantees are contractually subordinated to a lien thereon that secures the Company's five-year senior revolving credit facility with an aggregate principal amount of $25,000 (the "Revolving Credit Facility") and certain other permitted indebtedness.

On or after September 1, 2009, the Company may redeem some or all of the notes at the following redemption prices, expressed as percentages of the aggregate principal amount thereof, plus accrued and unpaid interest to the date of redemption. Prior to September 1, 2009, (i) the Company may redeem up to 35% of the aggregate principal amount of the notes with the net proceeds of certain equity offerings at 111.375% of the aggregate principal amount thereof, plus accrued and unpaid interest to the date of redemption provided that, following the redemption, at least 65% of the aggregate principal amount of the notes originally issued under the indenture remains outstanding and (ii) the Company may redeem the notes, in whole or in part, at a make-whole redemption price set forth herein, plus accrued and unpaid interest to the date of redemption. In addition, the Company may, at its option upon a change of control, redeem all, but not less than all, of the notes at any time prior to September 1, 2009, at 111.375% of their principal amount, plus accrued and unpaid interest to the redemption date.

If the Company experiences a change of control, the holders of the notes will have the right to require the Company to purchase their notes at 101% of the aggregate principal amount thereof, plus accrued and unpaid interest to the date of repurchase.

The Indenture contains covenants limiting the Company's ability to, among other things: incur or guarantee additional indebtedness or issue certain preferred stock; pay dividends; redeem or purchase equity interests; redeem or purchase subordinated debt; make certain acquisitions or investments; create liens; enter into transactions with affiliates; merge or consolidate; make certain restricted payments; and transfer or sell assets, including equity interests of existing and future restricted subsidiaries. The Company was in compliance with all covenants at December 31, 2007.

Senior Secured $90,000 Notes

On May 14, 2007, we completed an offering of $90,000 aggregate principal amount of 11 3/8% Senior Secured Notes due 2012 at an issue price of 105 3/4%, generating gross proceeds of $95,175. We used such proceeds from the offering to fund the InfoHighway merger, which closed on May 31, 2007, pay related fees and expenses and for general corporate purposes. The notes were an additional issuance to our existing Senior Secured $210,000 Notes and were issued under the Indenture.

In connection with the offerings of the $300,000 aggregate principal amount of Senior Secured Notes, we agreed to exchange the Senior Secured Notes for a new issue of substantially identical debt securities registered under the Securities Act of 1933 (the "Securities Act").On October 16, 2007 we filed a registration statement on Form S-4 to offer to exchange up to $300,000 aggregate principal amount of the 11 3/8% Senior Secured Notes registered under the Securities Act, which closed on November 14, 2007.

The bond premium of $4,740 at December 31, 2007 is included in long term debt. For the year ended December 31, 2007, bond premium amortization amounted to $435 and was recorded to interest expense using the effective interest rate method.

Revolving $25,000 Senior Credit Facility

On August 23, 2006, the Company entered into a five year, Revolving $25,000 Senior Credit Facility ("Revolving Credit Facility"). Any outstanding amounts under this facility are subject to a borrowing base limitation based on an advance rate of 85% of the amount of eligible receivables, as defined. The loans bear interest on a base rate method or LIBOR method, in each case plus an applicable margin percentage, at the option of the Company. Interest on the LIBOR loans is paid on a monthly or quarterly basis, and interest on the base rate loans is paid on a quarterly basis. The Company did not have any borrowings outstanding on the Revolving Credit Facility at December 31, 2007.

The Revolving Credit Facility also has a sublimit of $9,000 for the issuance of letters of credit. On the consummation of the ATX acquisition in August 2006, $7,802 of letters of credit were issued in lieu of vendor security deposits. Such letters of credit were returned in March 2007 and we had no outstanding letters of credit drawn against this facility at December 31, 2007.

Indebtedness under the Revolving Credit Facility is guaranteed by all of our direct and indirect subsidiaries that are not borrowers thereunder and is secured by a security interest in all of our and our subsidiaries' tangible and intangible assets.

The Revolving Credit Facility contains negative covenants and restrictions on our assets and our subsidiaries' actions, including, without limitation, incurrence of additional indebtedness, restrictions on dividends and other restricted payments, prepayments of debt, liens, sale-leaseback transactions, loans and investments, hedging arrangements, mergers, transactions with affiliates, changes in business and restrictions on our ability to amend the indenture and terms of our subordinated debt.

Certain of our assets have been pledged to the above creditors pursuant to the debt agreements. Each of our subsidiaries has guaranteed the outstanding debt. The parent company of these subsidiaries has no independent assets or operations and the guarantees are full and unconditional and joint and several.

Senior Credit Facility

Upon the closing of the 2005 Merger effective January 14, 2005, the Company amended and restated its Loan and Security Agreement, dated as of October 10, 2000, among the Company, its subsidiaries, NTFC Capital Corporation as Administrative Agent, Wachovia Bank, National Association as Syndication Agent and Communication Ventures Corporation (the "Senior Credit Facility").

The Company was required to pay interest in arrears, with varying interest rates on amounts of indebtedness, on each applicable interest payment date. The Senior Credit Facility contained financial and non-financial covenants.

On August 23, 2006, upon the completion of the Company's offering of the Senior Secured Notes, the Company repaid in full the then outstanding balance of $79,000 on the Senior Credit Facility.

Senior Subordinated Debt

In connection with the 2005 Merger, the Company entered into a note purchase agreement with MCG and the other existing equity holders whereby the Company issued senior unsecured subordinated notes ("Subordinated Debt") due 2009. In June 2005, the Company issued additional subordinated notes to those equity holders on terms identical to the existing senior subordinated debt. In general, the terms of the senior subordinated debt include an interest rate of 12% until December 31, 2008 at which point it increases to 15% until the stated maturity date of December 31, 2009.

In July 2006, the Company amended the note purchase agreement and issued an additional aggregate principal amount of $10,000 of senior unsecured subordinated notes due 2009 to three existing equity holders. These notes were issued on substantially the same terms as the senior unsecured subordinated notes due December 31, 2009.

In August 2006, in connection with the issuance of the Senior Secured Notes, the Company extinguished all outstanding Subordinated Debt, plus accrued interest. The Company converted $73,764 into common stock and series A-1 and B-1 preferred stock, and repaid the remaining balance of $972. The Company paid a conversion fee to all debt holders who converted to equity. This fee amounted to $1,531 and was recorded in interest expense.

11. Shareholders' Equity (Deficiency)

Equity

In July 2006, in anticipation of the acquisition of ATX and the refinancing of the existing senior unsecured subordinated notes, the Company authorized two new series of preferred stock, Series A-1 Preferred Stock, and Series B-1 Preferred Stock. At the refinancing, holders of the senior unsecured subordinated notes were offered the option to convert their existing notes into shares of either Series A-1 Preferred Stock and Class A Common Stock or Series B-1 Preferred Stock and Class A Common Stock at a conversion price per preferred share of $516.35. Each converting note holder also received a number of shares of Class A Common Stock equal to twenty-five times the number of shares of preferred stock purchased. The two new series of preferred stock are pari passu with the existing Series A and Series B of preferred stock.

As of December 31, 2007, there were 87,254 shares of Series A Preferred Stock outstanding. Each share of Series A Preferred Stock is non redeemable, but carries a liquidation preference of $1,419.76 per share, with an aggregate liquidation preference of the Series A Preferred Stock of $123.9 million as of December 31, 2007. The liquidation preference increases at an annual rate of 12%, compounded quarterly. To realize a liquidation preference, the holder must simultaneously surrender 25 shares of common stock for each share of preferred stock liquidated. Each share of Series A Preferred Stock is convertible for a $50 conversion price at the option of the holder or upon a qualifying initial public offering ("IPO") event into that number of common shares equal to the liquidation preference at the date of conversion divided by fifty dollars. The Series A Preferred Stock votes together with the Series A-1 Preferred Stock on certain matters requiring a class specific vote and is entitled to 30 votes per Series A Preferred Share on all matters requiring a vote of all shareholders.

As of December 31, 2007, there were 100,702 shares of Series A-1 Preferred Stock outstanding. Each Share of Series A-1 Preferred Stock is non redeemable, but carries a liquidation preference identical to the Series A Preferred Stock of $1,419.76 per share, with an aggregate liquidation preference of the Series A-1 Preferred Stock of $143.0 million as of December 31, 2007. The liquidation preference increases at an annual rate of 12%, compounded quarterly. In order to realize a liquidation preference, the holder must simultaneously surrender 25 shares of common stock for each share of preferred stock liquidated. Each share of Series A-1 Preferred Stock is convertible for a $50 conversion price at the option of the holder or upon a qualifying IPO event into that number of common shares equal to the liquidation preference at the date of conversion divided by fifty dollars. The Series A-1 Preferred Stock votes together with the Series A Preferred Stock on certain matters requiring a class specific vote and is entitled to 30 votes per Series A-1 Preferred Share on all matters requiring a vote of all shareholders.

As of December 31, 2007, there were 91,202 shares of Series B Preferred Stock outstanding. Each share of Series B Preferred Stock is non redeemable, but carries a liquidation preference of $1,419.76 per share with an aggregate liquidation preference of the Series B Preferred Stock of $129.5 million as of December 31, 2007. The liquidation preference increases at an annual rate of 12%, compounded quarterly. In order to realize a liquidation preference, the holder must simultaneously surrender 25 shares of common stock for each share of preferred stock liquidated. Each share of Series B Preferred Stock is convertible for a $50 conversion price at the option of the holder or upon a qualifying IPO event into that number of common shares equal to the liquidation preference at the date of conversion divided by fifty dollars. The Series B Preferred Stock votes together with the Series B-1 Preferred Stock on certain matters requiring a class specific vote and is entitled to 20 votes per Series B Preferred Share on all matters requiring a vote of all shareholders.

As of December 31, 2007, there were 64,986 shares of Series B-1 Preferred Stock outstanding. Each Share of Series B-1 Preferred Stock is non redeemable, but carries a liquidation preference identical to the Series B Preferred Stock of $1,419.76 per share with an aggregate liquidation preference of the Series B-1 Preferred Stock of $92.3 million as of December 31, 2007. The liquidation preference increases at an annual rate of 12%, compounded quarterly. In order to realize a liquidation preference, the holder must simultaneously surrender 25 shares of common stock for each share of preferred stock liquidated. Each share of Series B-1 Preferred Stock is convertible for a $50 conversion price at the option of the holder or upon a qualifying IPO event into that number of common shares equal to the liquidation preference at the date of conversion divided by fifty dollars. The Series B-1 Preferred Stock votes together with the Series B Preferred Stock on certain matters requiring a class specific vote and is entitled to 20 votes per Series B-1 Preferred Share on all matters requiring a vote of all shareholders.

As of December 31, 2007, there were 14,402 shares of Series C Preferred Stock outstanding. Each share of Series C Preferred Stock is non redeemable, but carries a liquidation preference equal to the Series A Preferred Share liquidation preference less $516.35 or $903.41 per share as of December 31, 2007. At December 31, 2007, the aggregate liquidation preference of the Series C Preferred Stock is $13.0 million. To realize a liquidation preference, the holder must simultaneously surrender 25 shares of common stock for each share of preferred stock liquidated. Each share of Series C Preferred Stock is convertible for a $50 conversion price at the option of the holder or upon a qualifying IPO event into that number of common shares equal to the liquidation preference at the date of conversion divided by fifty dollars. The Series C Preferred Stock is non voting.

The Company's Charter provides that if the following events occur (defined in the Charter as " Liquidations "), the holders of preferred stock shall be entitled to be paid the liquidation preference associated with the preferred stock prior to any payment or distribution to holders of junior securities: (1) the Company shall (i) commence a voluntary bankruptcy, (ii) consent to an involuntary bankruptcy, (iii) make an assignment for the benefit of its creditors, or (iv) admit in writing its inability to pay its obligations; (2) an order of involuntary bankruptcy is commenced in respect of the Company and the order is unstayed and in effect for 60 consecutive days and on account of such event the Company liquidates, dissolves or winds-up; (3) the Company shall otherwise liquidate, dissolve or wind-up; and (4) the Company shall (i) merge or consolidate and the Company is not the surviving entity of such merger or consolidation, (ii) merge or consolidate and the Company is the surviving entity of such merger or consolidation, though the pre-merger or pre-consolidation holders of the Company's capital stock cease to maintain control of the

Company, (iii) sell substantially all of the assets of the Company, or (iv) sell a majority of the voting stock of the Company. Neither the Charter nor any other agreement contains a contractual redemption feature relating to the preferred stock. There are no provisions in the Charter that explicitly or contractually permit the preferred shareholders to trigger a liquidation payment or distribution upon the occurrence of any of the Liquidation events.

As of December 31, 2007, there were 9,342,880 shares of Series A common stock outstanding. During 2006, 1,307,770 shares of common stock held by the Company's previous senior lenders were repurchased for nominal consideration, which approximated fair value, after the repayment of the Company's senior credit facility. The Series A common stock is entitled to 1 vote per share on all matters requiring a vote of all shareholders.

As of December 31, 2007, there were 360,050 shares of Series B common stock outstanding. Upon a qualifying IPO event, each share of Series B common stock is automatically converted into one share of Series A common stock.

As a result of the 2005 Merger effective January 14, 2005 and related transactions, MCG, the indirect controlling stockholder of BH, effectively became the owner of stock representing (1) 60% of the voting power of the Company's capital stock and (2) approximately 40% of the Company's capital stock on a fully diluted basis, excluding options reserved but not issued under the Company's employee stock incentive plan as of January 14, 2005. Pursuant to the 2005 Merger, MCG exchanged its 100% interest in BH's corporate parent for Series A preferred stock and Class A common stock of the Company. BH was considered to be the acquirer for accounting purposes (see Note 1).

Immediately prior to the 2005 Merger, all existing series of capital stock of BNI were reclassified into Series B Preferred Stock and Class A common stock.

As of December 31, 2007, stock options to acquire 136 shares of Series B Preferred Stock and 3,445 shares of Common Stock are outstanding under the Company's 1997 and 2000 Stock Option Plans. The Company is no longer authorized to issue any additional awards under the Company's 1997 and 2000 Stock Option Plans.

As of December 31, 2007, a warrant to acquire 46 shares of Series B Preferred Stock and 1,151 shares of Class A common stock is outstanding.

12. Stock Based Compensation

Restricted Stock Awards

In conjunction with the 2005 Merger, the Company issued restricted stock awards to replace previously held stock options (see below). The awards consisted of 1,900 shares of Series A preferred stock and 47,500 shares of Class A common stock and vested over three years at a percentage rate of 40/30/30 based on service requirements. In 2005, an additional grant with similar vesting terms was provided to one of the Company's executives of 368 shares of Series A preferred stock, 383 shares of Series B preferred stock and 18,750 shares of Class A common stock.

In February 2007, the Company's board adopted and its shareholders subsequently approved the Company's Management Incentive Plan (the "MIP"), pursuant to which the Company is authorized to grant stock options and restricted stock to certain of its employees. Pursuant to the MIP, there are 52,332 shares of Series C Preferred Stock and 1,308,297 shares of non-voting Class B Common Stock reserved for issuance. In April 2007, grants of restricted stock representing 14,402 shares of Series C Preferred Stock and 360,050 shares of Class B Common Stock were completed. As a condition and in conjunction with the MIP grants, all vested share-based awards then outstanding and held by participants in the MIP were repurchased for cash consideration of $1.7 million and all unvested share-based awards then outstanding and held by participants in the MIP were cancelled in exchange for the issuance of new awards under the MIP. Under FASB Interpretation No. 44, *Accounting for Certain Transactions Involving Stock Compensation* ("FIN 44"), if a company cancels or settles an award and replaces that award with a new type of award, a new measurement date would be required and additional compensation expense is recognized over the remaining vesting period. All of the awards, including modified awards required to be remeasured under FIN 44 and new awards issued, were valued at the grant date at fair market value using public company comparables, recent comparable transactions and discounted cash flow valuation methodologies.

Grants under the MIP consisted of both vested and unvested securities. Unvested securities will generally vest in ratable annual installments over the three-year period following the grant based on service requirements. The incremental value for the fair value of the MIP awards over the fair value of the awards repurchased or cancelled and the fair value of all vested MIP awards not representing grants for repurchased and cancelled securities were expensed immediately at the grant date, totaling $1.7 million.

The following table summarizes the Company's restricted stock award activity:

	Series A and B Preferred	Series C Preferred	Series A and B Common	Weighted-Average Grant Date Fair Value
Outstanding December 31, 2004	—	—	—	—
Grants	2,650	—	66,250	$ 502.43
Forfeit/Cancel/Repurchase	—	—	—	—
Outstanding December 31, 2005	2,650	—	66,250	$ 502.43
Grants	—	—	—	—
Forfeit/Cancel/Repurchase	—	—	—	—
Outstanding December 31, 2006	2,650	—	66,250	$ 502.43
Grants	—	14,402	360,050	$ 137.50
Forfeit/Cancel/Repurchase	(2,650)	—	(66,250)	$ 502.43
Outstanding December 31, 2007	—	14,402	360,050	$ 137.50

Total compensation expense, which is included in selling, general & administrative expense, for restricted stock awards for the years ended December 31, 2005 and 2006 were $673 and $754. Total compensation expense for the new restricted stock awards and the unvested portion of the modified awards for the year ended December 31, 2007 was $2,173. At December 31, 2007 the total compensation cost related to unvested awards not yet recognized is $202 and is expected to be recognized over a period of approximately 2 years.

Stock Options

At December 31, 2004, options to purchase 29,352 shares of common stock at an exercise price of $0.01 per share were outstanding and were exercisable through March 2014. In conjunction with the 2005 Merger, outstanding stock options under this plan were cancelled and replaced with restricted stock awards (see above). In April 2007 pursuant to the MIP, grants of options to acquire 21,599 units comprised of 1 share of Series C Preferred Stock and 25 shares of Class B Common Stock were completed. Options under the MIP were granted with an exercise price equal to the fair market value of a unit determined as of the grant date subsequent to the approval by the board of the individual grants. The fair market value was determined utilizing the Black-Scholes model with an exercise price equal to the assumed fair market value of an underlying unit of $137.50, a three year expected life of the option, a volatility based on market comparable entities of 55%, no dividend yield and a risk free rate of 4.5%.

The following table summarizes the Company's stock option activity:

	Common Stock	Series C Preferred	Average Exercise Price
Outstanding December 31, 2004	29,352	—	$ 0.01
Grants	—	—	—
Forfeit/Cancel/Repurchase	(29,352)	—	0.01
Outstanding December 31, 2005	—	—	—
Grants	—	—	—
Forfeit/Cancel/Repurchase	—	—	—
Outstanding December 31, 2006	—	—	—
Grants	—	21,599	137.50
Forfeit/Cancel/Repurchase	—	(699)	137.50
Outstanding December 31, 2007	—	20,900	$137.50

Total compensation expense for stock options for the year ended December 31, 2007 was $378. There was no corresponding expense for the years ended December 31, 2005 and 2006. As of December 31, 2007 options to acquire 2,630 of the 20,900 Series C units are vested, but none of the options are currently exercisable. The remaining contractual term of the outstanding options is approximately 2 years.

13. Income Taxes

The components of the provision (benefit) for income taxes for the years ended December 31, 2005, 2006, and 2007 consist of:

	2005	2006	2007
Current:			
Federal	$ —	$ —	$ (293)
State	—	262	164
Deferred	—	—	855
	$ —	$ 262	$ 726

The following table shows the principal reasons for the difference between the effective income tax rate and the statutory federal income tax rate during the years ended December 31, 2005, 2006 and 2007:

	2005	2006	2007
Statutory federal income tax rate	34.0%	34.0%	35.0%
State and local income tax, net of federal tax benefits	0.0	0.4	0.2
Permanent items	0.0	0.0	0.3
Valuation allowance	(34.0)	(34.4)	(35.5)
Effective income tax rate	0.0%	0.0%	0.0%

Deferred taxes reflect the net tax effects of temporary differences between the carrying amount of assets and liabilities for financial reporting purposes and the amounts used for tax purposes.

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The components of the net deferred tax assets (liabilities) consist of the following at December 31, 2006 and 2007:

	December 31	
	2006	2007
Accounts receivable	$ 1,859	$ 3,857
Deferred revenue	3,198	3,882
Other	1,095	2,153
Total deferred tax assets-Current	6,152	9,891
Net Operating loss carry forwards	28,040	49,342
Customer lists	1,305	3,626
Trademark	—	1,403
Other	983	2,218
Total deferred tax assets-Noncurrent	30,328	56,588
Total deferred tax assets	36,480	66,479
Customer Lists	20,778	23,713
Trademark	46	1,297
Goodwill	1,117	1,141
Accelerated Depreciation	13,565	13,389
Total deferred tax liabilities-Noncurrent	35,506	39,540
Total deferred tax assets-Current	6,152	9,891
Valuation allowance	(6,152)	(9,891)
Net current deferred tax assets	—	—
Total deferred tax assets-Noncurrent	30,328	56,588
Total deferred tax liabilities-Noncurrent	35,506	39,540
Valuation allowance	5,178	(18,189)
Net noncurrent deferred tax liabilities	—	(1,141)

The Company completed a study in 2006 and in 2007 of its available net operating loss carryforwards ("NOLs") resulting from the 2005 Merger and the InfoHighway merger. The utilization of these NOL carryovers is subject to restrictions pursuant to Section 382 of the Internal Revenue Code. As such, it was determined that certain NOLs recorded by the Company as deferred tax assets were limited. At December 31, 2007, the Company had net operating loss carryforwards available totaling approximately $131,117 million which expire through 2027. The Company has provided a full valuation allowance against the net deferred tax asset as of December 31, 2006 and 2007 because management does not believe it is more likely than not that this asset will be realized. If the Company achieves profitability, the net deferred tax assets may be available to offset future income tax liabilities.

In July 2007, we reached a settlement with the Internal Revenue Service related to an audit of Bridgecom Holdings, Inc. for fiscal years 2002 through 2004 that resulted in an adjustment to our existing net operating loss carryforwards of approximately $2,900. Additionally, we received a refund of $300 which was recorded as a benefit to income tax expense. We also reversed liabilities of $293 which had been previously recorded in accordance with FIN 48 (see below). We currently have no federal tax examinations in progress.

In July 2006, the FASB issued Interpretation No. 48, *Accounting for Uncertainty in Income Taxes* ("FIN 48"). FIN 48 requires the use of a two-step approach for recognizing and measuring tax benefits taken or expected to be taken in a tax return and disclosures regarding uncertainties in income tax positions. Only tax positions that meet the more likely than not recognition threshold at the effective date may be recognized upon adoption of FIN 48. We adopted FIN 48 effective January 1, 2007 and recorded a cumulative effect adjustment of $287 to opening retained earnings of which $18 was interest and penalties. In addition, we reduced $1,751 of a deferred tax asset and its associated valuation allowance. Prior to the adoption of FIN 48, such expenses would have been recorded as interest expense. Our condensed balance sheet includes no liability for unrecognized income tax benefits principally due to the settlement with the Internal Revenue Service as noted above.

14. Employee Savings and Retirement Plan

During 2007, the Company had three active contributory defined contribution plans under Section 401(k) of the Internal Revenue Code (the "Code") covering all qualified employees. Two of these plans, which historically covered the employees of ATX and InfoHighway, have been terminated effective December 31, 2007. Assets of the participants covered under these plans were transferred into the Company's remaining plan. Participants may elect to defer up to 20% of their annual compensation, subject to an annual limitation as provided by the Code. The

Company's matching contribution to this plan is discretionary. For the year ended December 31, 2006 and 2007, the Company made contributions of approximately $32 and $144, respectively, to these plans. For the year ended December 31, 2005, the company did not make any contributions to the plan.

15. Fair Values of Financial Instruments

In the normal course of business, the Company's financial position is subject to a variety of risks, such as the collectability of accounts receivable and the recoverability of the carrying values of its long-term assets. The Company's long-term obligations consist primarily of long-term debt with fixed interest rates. The Company is not exposed to market risks from changes in foreign currency exchange rates or commodity prices.

The Company's financial instruments include cash and cash equivalents, trade accounts receivable, accounts payable, and long-term debt. The Company's available cash balances are invested on a short-term basis (generally overnight) and, accordingly, are not subject to significant risks associated with changes in interest rates. All of the Company's cash flows are derived from operations within the United States and are not subject to market risk associated with changes in foreign exchange rates. The carrying amount of the Company's cash and cash equivalents, trade accounts receivable and accounts payable reported in the consolidated balance sheet as of December 31, 2007 are deemed to approximate fair value because of their liquidity and short-term nature.

The fair value of our 11 3/8% senior secured notes due 2012 at December 31, 2007, was approximately $314.3 million, which was based on the closing price of the notes at that date.

16. Commitments and Contingencies

The Company has employment agreements with certain key executives at December 31, 2007. These agreements provide for base salaries and performance bonuses over periods ranging from one to two years. These employment agreements also provide for severance compensation for a period of up to 12 months after termination.

The Company has standby letters of credit outstanding of approximately $1.5 million which are fully collateralized by certificates of deposit.

The Company has, in the ordinary course of its business, disputed certain billings from carriers and has recorded the estimated settlement amount of the disputed balances. The settlement estimate is based on various factors, including historical results of prior dispute settlements. The amount of such charges in dispute at December 31, 2007 was in excess of $30,000. The Company believes that the ultimate settlement of these disputes will be at amounts less than the amount disputed and has accrued the estimated settlement in accounts payable and accrued expenses and other current liabilities at December 31, 2007. It is possible that actual settlement of such disputes may differ from these estimates and the Company may settle at amounts greater than the estimates.

In February 2007, the Company finalized a settlement with its major telecommunications supplier and paid $15,200 to extinguish approximately $39,000 of outstanding disputes. In connection with the settlement, in 2006 the Company recorded a reduction in costs of revenues of approximately $5,000.

The Company has entered into commercial agreements with a vendor under which it purchases certain services that it had previously leased under the unbundled network platform provisions of the Telecommunications Act of 1996. For the years ended December 31, 2005, 2006 and 2007, the Company met the minimum purchase obligations during each year. The agreements, which expire in 2010 and 2011 require certain minimum purchase obligations and contain fixed but escalating pricing over their term. The future obligations under these agreements as of December 31, 2007 are as follows:

Year ending December 31:	
2008	$ 49,944
2009	50,908
2010	29,824
2011	22,262
Total future obligations	$ 152,938

The Company is involved in claims and legal actions arising in the ordinary course of business. Management is of the opinion that the ultimate outcome of these matters will not have a material adverse impact on the Company's consolidated financial position, results of operations, or cash flows.

17. Earnings per share

The following is a reconciliation of the numerators and denominators of the basic and diluted net loss per share computations for the years ended December 31, 2005, 2006 and 2007 (in thousands, except per share amounts):

	2005	2006	2007
Loss available to common shareholders (Numerator):			
Net loss	$ (38,928)	$ (41,513)	$ (65,489)
Dividends on preferred stock	(22,002)	(32,996)	(55,031)
Modification of preferred stock	—	—	(95,622)
Loss available to common shareholders	$ (60,930)	$ (74,509)	$ (216,142)
Shares (Denominator):			
Weighted average common shares outstanding:			
Class A common stock	6,385,863	7,396,610	9,131,327
Class B common stock	—	—	227,805
Total weighted average common shares outstanding — basic and diluted	6,385,863	7,396,610	9,359,132
Loss available per common share — basic and diluted	$ (9.54)	$ (10.07)	$ (23.09)

For the years ended December 31, 2005, 2006 and 2007, the Company had outstanding options, warrants, restricted stock units and preferred stock as disclosed in Notes 11 and 12, which were convertible into or exercisable for common shares that were not included in the calculation of diluted loss per common share because the effect would have been anti-dilutive.

Dividends accumulate on the Company's Series A, A1, B and B1 Preferred Stock. Per SFAS No. 128, *Earnings Per Share* , loss available to common shareholders must be computed by adding any dividends accumulated for the period to net losses. Dividends accumulated but undeclared for the years ended December 31, 2005, 2006 and 2007 were $22.0 million, $33.0 million and $55.0 million, respectively.

In February 2007, the Company added a provision to the Series A, A-1, B and B-1 Preferred Stock providing for an Absolute Liquidation Preference ("ALP"). The ALP concept was added to the Company's Charter in anticipation of a management incentive plan implemented by the Company in March 2007, under which management would receive options and restricted stock awards of Series C Preferred Stock. Before adding an ALP concept, the Series A, A-1,B and B-1 Preferred Stock shared pro rata in any distributions made by the Company up to their stated value of $1,000 plus accrued dividends. The ALP ensured that before any distribution is provided to any other stockholders, such as the Series C Preferred Stockholders, the Series A, A-1, B and B-1 Preferred Stockholders will receive $516.35 per share and then all series of preferred stock, including the Series C Preferred Stock will share pro rata.

The Company considered the change to the preferred stock provisions to be a modification, which required extinguishment accounting. As a result, $95.6 million, which is the difference between the fair value of these preferred shares at the time of the modification and their carrying value, was added to the Company's net loss to arrive at a loss available to common shareholders for the year ended December 31, 2007. This event had no impact on the Company's balance sheet as it has no net effect on the Company's preferred share balances or on its additional paid-in capital balance.

18. Unaudited Quarterly Results of Operations

The following is the unaudited quarterly results of operations for the years ended December 31, 2006 and 2007. We believe that the following information reflects all normal recurring adjustments necessary for a fair presentation on the information for the period presented. The operating results for any quarter are not necessarily indicative of results for any future period.

	2006			
	Three Months Ended			
	March 31	June 30	September 30	December 31(2)
Revenues	$ 59,369	$ 59,377	$ 57,675	$ 96,232
Loss from operations	$ (4,325)	$ (3,602)	$ (3,416)	$ (5,859)
Net loss	$ (9,412)	$ (8,324)	$ (11,079)	$ (12,696)
Dividends on preferred stock	(6,131)	(6,315)	(8,600)	(11,950)
Loss available to common shareholders	$ (15,543)	$ (14,639)	$ (19,679)	$ (24,646)
Loss available per common share — basic and diluted(1)	$ (2.37)	$ (2.23)	$ (2.59)	$ (2.79)
Weighted average common shares outstanding — basic and diluted	6,564,872	6,564,872	7,599,147	8,830,247

(1) The sum of quarterly per share amounts may not equal per share amounts reported for year-to-date periods. This is due to changes in the number of weighted-average shares outstanding and the effects of rounding for each period.

(2) The Company acquired ATX on September 29, 2006. The Company's results of operations for the three months ended December 31, 2006 include the operations of ATX.

	2007			
	Three Months Ended			
	March 31	June 30(2)	September 30	December 31(3)
Revenues	$ 95,821	$ 106,524	$ 123,652	$ 125,162
Loss from operations	$ (8,055)	$ (6,655)	$ (6,115)	$ (11,277)
Net loss	$ (15,252)	$ (15,354)	$ (14,990)	$ (19,892)
Dividends on preferred stock	(12,309)	(13,346)	(14,471)	(14,905)
Modification of preferred stock	(95,622)	—	—	—
Loss available to common shareholders	$ (123,183)	$ (28,700)	$ (29,461)	$ (34,797)
Loss available per common share — basic and diluted(1)	$ (13.92)	$ (3.19)	$ (3.15)	$ (3.72)
Weighted average common shares outstanding — basic and diluted	8,848,454	8,983,336	9,342,880	9,342,880

(1) The sum of quarterly per share amounts may not equal per share amounts reported for year-to-date periods. This is due to changes in the number of weighted-average shares outstanding and the effects of rounding for each period.

(2) The Company acquired InfoHighway on May 31, 2007. Accordingly, the Company's results of operations include the operations of InfoHighway from June 1, 2007.

(3) We recognized an impairment charge due to rebranding of ATX initiative